



CRL RC(MD)No.788 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 29.08.2025

PRONOUNCED ON : 27.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.788 of 2025

Sudha

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by The Inspector of Police,
Thiruparankundram Police Station
Madurai District.
(Crime No.676 of 2023)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records pertaining to order dated 15.04.2025 passed by the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Case, Madurai, in CrI.M.P.No. 545 of 2025 in Crime No.676 of 2023 dated 30.12.2023 on the file of the respondent police and set aside the same by allowing the above Criminal Revision Petition and further direct the respondent police to return the Yamaha MT15 Bike bearing Registration No.TN-58-BK-5068 to the Revision Petitioner.

For Petitioner : Mr.B.Arun

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor



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ORDER

Preface:

This Criminal Revision Case is directed against the order dated 15.04.2025 passed in CrI.M.P.No.545 of 2025 by the learned Principal Special Judge for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, refusing interim custody of a Yamaha MT-15 motorcycle bearing Registration No. TN-58-BK-5068, seized in Crime No.676 of 2023 registered by Thiruparankundram Police Station for offences under Sections 8(c) r/w 20(b)(ii)(B), 29(1) and 25 of the NDPS Act, 1985.

2. The petitioner is the registered owner of the motorcycle. Her brother has been arrayed as an accused and the vehicle is alleged to have been used in connection with the commission of the NDPS offences. The Special Court, relying essentially on the seriousness of the accusation and on the apprehension that the vehicle may be reused for the same offence or not produced at trial, declined to release the vehicle on interim custody.



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Case of the Prosecution:

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3. The prosecution version, as reflected in Crime No.676 of 2023 and in the objection to Crl.M.P.No.545 of 2025, may be summarised thus:

The respondent / Thiruparankundram Police registered Crime No. 676 of 2023 for alleged offences under Sections 8(c), 20(b)(ii)(B), 29(1) and 25 of the NDPS Act. The petitioner's brother is arrayed as one of the accused (A4). It is alleged that he, along with others, was involved in possession, transport and abetment / conspiracy relating to ganja in a quantity falling under Section 20(b)(ii)(B). The prosecution claims that the contraband ganja was being transported / moved using the Yamaha MT-15 motorcycle bearing Registration No. TN-58-BK-5068.

4. On receipt of information, the police apprehended the accused, seized the contraband, and also seized the said motorcycle as the conveyance used in the commission of the offence. Investigation was conducted and charge-sheet has been filed, which has been taken on file in C.C.No.295 of 2024 on the file of the Special Court for NDPS Act Cases, Madurai. According to the prosecution, if the vehicle is returned, there is a reasonable apprehension that the accused (particularly A4,



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the petitioner's brother) may again use it for similar illegal activities, and that there is also a risk that the vehicle may not be produced before the Court at the time of trial or for the purpose of confiscation. On this basis, the prosecution opposed interim release of the motorcycle to the petitioner.

Case of the Petitioner

5. The petitioner's case, as projected in Crl.M.P.No.545 of 2025 and reiterated in this revision, is as follows:

The petitioner is the registered owner of the Yamaha MT-15 motorcycle bearing Registration No. TN-58-BK-5068. The Registration Certificate and allied documents stand in her name. A case in Crime No. 676 of 2023 has been registered by the respondent against her brother for alleged offences under Sections 8(c), 20(b)(ii)(B), 29(1) and 25 of the NDPS Act. In that process, the respondent police have arrested the accused and seized the petitioner's motorcycle.

6. The petitioner asserts that she had no role whatsoever in the alleged offences, she has not been shown as an accused, nor is there any allegation that she abetted, conspired or knowingly permitted the



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use of her vehicle for the commission of NDPS offences. She contends that the seized Yamaha MT-15 is used for her official / personal purposes, and that it has been wrongly implicated in the crime merely because her brother happened to use it at the relevant time.

7. The motorcycle, after seizure, has been kept in the open yard of the respondent police station, exposed to sun, rain and other natural elements, thereby causing rapid deterioration of its condition. If allowed to remain there indefinitely, it will not remain fit for trouble-free use and will lose its value. The petitioner states that she will suffer substantial hardship and financial loss if the vehicle is not returned on interim custody, as she depends on the vehicle for mobility and work. She undertakes to produce the vehicle whenever required, to abide by any conditions that may be imposed, and to cooperate with the trial. On these grounds, she prayed that the vehicle be returned to her on interim custody.

Gist of the Impugned Order:

8. By order dated 15.04.2025 in Crl.M.P.No.545 of 2025, the learned Principal Special Judge for NDPS Act Cases, Madurai,



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dismissed the petitioner's application. The gist of the reasoning is:

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The case in Crime No.676 of 2023 relates to offences under Sections 8(c), 20(b)(ii)(B), 29(1) and 25 NDPS Act, and the vehicle is alleged to have been used in connection with those offences. Charge-sheet has been filed and taken on file as C.C.No.295 of 2024. Thus, trial is pending before the Special Court. The accused A4 is the petitioner's brother, and the vehicle belongs to the petitioner. There is an apprehension that if the vehicle is handed over to the petitioner, A4 may again commit similar offences using the same vehicle.

9. The Court also expressed apprehension that the vehicle may not be produced in future before the Court for the purpose of evidence and any orders relating to confiscation. In view of the seriousness of NDPS offences and the above apprehensions, the learned Special Judge held that the petitioner is not entitled to interim custody and dismissed the petition.

Grounds of Revision

10. The petitioner challenges the impugned order on several grounds, including:



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The learned Special Judge did not properly consider that the petitioner is the registered owner and is not an accused in Crime No. 676 of 2023. Liability to confiscation, if any, must be adjudicated under Sections 60(3) and 63 of the NDPS Act, not presumed in advance. The Court below failed to exercise its powers under Sections 451 and 457 Cr.P.C.,1973 (now Sections 497 and 503 BNSS), which apply to NDPS proceedings by virtue of Sections 36-C and 51 of the NDPS Act, insofar as there is no inconsistency.

11. The learned Trial Court did not consider or apply the law laid down in ***Sunderbhai Ambalal Desai v. State of Gujarat***¹, ***Bishwajit Dey v. State of Assam***² and ***Denash v. State of Tamil Nadu***³, wherein the Hon'ble Supreme Court has recognised the power and, in appropriate cases, the necessity of granting interim custody of seized vehicles to bona fide owners, even in NDPS cases, subject to safeguards. The learned Special Court has, in effect, treated the possibility of future misuse as sufficient to deny interim custody, without examining whether such risk can be mitigated by imposing conditions or whether

1 (2002) 10 SCC 283

2 2025 INSC 32

3 2025 SCC OnLine 2276



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the owner can be made to furnish bond and undertaking.

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12. The learned Court below overlooked the hardship to the petitioner and the fact that the vehicle, if kept indefinitely in the open yard, will lose its value and functionality, leading to irreparable loss which cannot be cured even if she is ultimately found to be an innocent owner. The impugned order is brief and does not demonstrate a balanced consideration of competing interests or reference to the statutory scheme and case law.

Submissions:

13. Mr. B. Arun, learned counsel for the petitioner, submitted that the petitioner is the indisputable registered owner of the Yamaha MT-15 motorcycle; she is not an accused and is, on the present record, a bona fide owner whose vehicle was allegedly misused by her brother. Under Section 36-C of the NDPS Act, the provisions of the Code of Criminal Procedure (and now BNSS) apply to proceedings before the Special Court except where inconsistent. Section 51 of the NDPS Act similarly preserves the application of the Code to seizures, searches and warrants.



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14. Sections 451 and 457 of Cr.P.C.,1973 / 497 and 503 BNSS empower the Court to order interim custody / delivery of seized property to the person entitled to possession, particularly where the property is subject to speedy or natural decay. Confiscation is governed by Sections 60(3) and 63 of the NDPS Act, which envisage a judicial determination upon evidence and after hearing the owner. The Special Court cannot pre-judge confiscation or treat the vehicle as irretrievably liable for confiscation at the interlocutory stage.

15. The learned counsel relied on **Sunderbhai Ambalal Desai v. State of Gujarat**⁴, where the Supreme Court observed that keeping vehicles in police custody for years is undesirable and that, in the interests of justice and public interest, vehicles should ordinarily be released to the owner on suitable terms, with proper record (photographs, identification etc.). He placed particular reliance on **Bishwajit Dey v. State of Assam**⁵, where the Supreme Court classified four broad categories of situations involving seizure from conveyances and held that, in cases where the owner is not shown to be a direct participant in the offence, courts should normally release the vehicle on

4 (2002) 10 SCC 283

5 2025 INSC 32



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superdari, imposing appropriate conditions to secure production or value.

16. He further cited ***Denash v. State of Tamil Nadu***⁶, where the Supreme Court clarified that administrative disposal mechanisms or rules cannot divest the court of its jurisdiction under Sections 451 / 457 Cr.P.C.,1973 (497 / 503 BNSS) to consider applications for interim custody, and that the statutory safeguards for owners under Sections 60(3) and 63 of the NDPS Act cannot be overridden by mere apprehensions. The petitioner is willing to furnish a substantial bond and sureties, and to file an undertaking that she will produce the vehicle whenever required and will not permit its use for any unlawful activity. On these premises, he submitted that the impugned order is legally unsustainable and should be set aside, and the vehicle released to the petitioner on strict conditions.

Submissions:

17. Mr. T. Senthil Kumar, learned Additional Public Prosecutor, contended that the case in Crime No.676 of 2023 involves NDPS

⁶ 2025 SCC OnLine 2276



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offences of a serious nature, and the motorcycle is specifically alleged to have been used in connection with those offences. Charge-sheet has been filed and the case is now pending as C.C.No.295 of 2024 before the Special Court. The vehicle is a material object in the prosecution. The petitioner's brother (A4) is an accused and the vehicle belonging to his sister was used by him. There is an apprehension that if the vehicle is returned to the petitioner, A4 may again gain access to the vehicle and use it for similar illegal activities.

18. There is also a concern that the vehicle might not be produced when required for evidence or confiscation proceedings, thereby prejudicing the prosecution. Having regard to the gravity of NDPS offences and the role of the vehicle, the learned Special Judge acted within his discretion in refusing interim custody. He, therefore, prayed for dismissal of the revision.

Analysis:

19. The NDPS Act is undoubtedly a special statute with stringent substantive provisions and special procedures. The scheme of the NDPS Act acknowledges the continued application of the general criminal



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procedure under Section 36-C of the NDPS Act which provides that the provisions of the Code of Criminal Procedure apply to proceedings before a Special Court save as otherwise provided in the Act. Section 51 of the NDPS Act provides that the provisions of the Code apply to procedures relating to warrants, arrests, searches and seizures, again insofar as they are not inconsistent with the NDPS Act.

20. Section 451 Cr.P.C.,1973 / Section 497 BNSS authorise the criminal court to make appropriate orders for the proper custody of property pending inquiry or trial, and, if necessary, for its sale or disposal where expedient and just. Section 457 Cr.P.C.,1973 / Section 503 BNSS empower the court, on receipt of a police report regarding seizure of property, to determine the person entitled to possession and to order delivery of such property or pass any order as it thinks fit.

21. As for confiscation under NDPS, Section 60(3) provides that a conveyance used for carrying narcotic drugs is liable to confiscation unless the owner proves that it was used without his knowledge or connivance and that he and his agent took reasonable precautions.



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Section 63 provides that the Court is obliged, at the conclusion of trial or in specified cases, to decide whether any article or conveyance is liable to confiscation, and must give notice and hearing to the person claiming any right over such property before ordering confiscation. Thus, the scheme draws a clear distinction between: Interim custody of seized property (Code / BNSS power), and Final confiscation (judicial determination under Sections 60 and 63 of the NDPS Act).

22. Nothing in the NDPS Act bars the Court from exercising its general powers over property under Sections 451 / 457 Cr.P.C.,1973 (497 / 503 BNSS), provided such exercise does not contradict the confiscation scheme. Interim release subject to conditions does not contradict; rather, it co-exists with and respects the ultimate jurisdiction under Section 63 of the NDPS Act.

23. The recent decisions of the Hon'ble Supreme Court in ***Bishwajit Dey v. State of Assam***⁷ and ***Denash v. State of Tamil Nadu***⁸ assume particular significance. In ***Bishwajit Dey v. State of***

⁷ 2025 INSC 32

⁸ 2025 SCC OnLine 2276



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Assam⁹, the Supreme Court recognised the repeated problem of vehicles lying in police stations for long periods, deteriorating in value and classified typical scenarios of seizure from conveyances and stressed that where the registered owner or bona fide claimant is not shown to be a direct participant in the crime, the normal rule should favour interim release on superdari, subject to securing the court's interest through bonds and undertakings, and clarified that the court's discretion under Section 451 / 457 Cr.P.C.,1973 must be exercised realistically and pragmatically, taking into account the interest of the prosecution in ultimate production of property and the interest of the owner in preventing waste and destruction of valuable property.

24. In **Denash v. State of Tamil Nadu**¹⁰, the Supreme Court dealt squarely with the contention that administrative disposal mechanisms (such as Drugs Disposal Committees and Rules framed under the NDPS Act) could displace the court's jurisdiction over seized property. The Supreme Court held, in substance, that such administrative mechanisms are implementational and cannot supersede the statutory jurisdiction of the criminal Court.

9 2025 INSC 32

10 2025 SCC OnLine 2276



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25. They cannot override the rights of owners under Sections 60(3) and 63 of the NDPS Act or the general procedural powers under Sections 451 / 457 Cr.P.C.,1973 (497 / 503 BNSS). A bona fide owner who approaches the court cannot be directed to wait for administrative disposal or to challenge administrative action at a later stage, the court remains competent to grant interim custody on appropriate conditions. Read with **Sunderbhai Ambalal Desai v. State of Gujarat¹¹**, these decisions establish that prolonged detention of vehicles in police custody is undesirable and that courts must actively use their powers to prevent economic and physical waste of property, while safeguarding the prosecution's legitimate concerns through stringent conditions.

26. In the present case, the petitioner is the registered owner of the motorcycle. She is not an accused in Crime No.676 of 2023, the accused is her brother (A4). There is no assertion on record that the petitioner knew or connived in the alleged NDPS offence or that she habitually permits her vehicle to be used for illegal activities. The prosecution's apprehension is that, if the vehicle is returned, A4 may re-use it for illegal activity and that it may not be produced at trial. These apprehensions are not to be dismissed as fanciful, but they do not justify automatic denial of interim custody. Instead, as explained in 11 (2002) 10 SCC 283

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Bishwajit Dey v. State of Assam¹² and Denash, such risks must be managed by conditions, not by a blanket embargo on release.

27. The Court must also have regard to the economic reality that a motorcycle exposed to weather in a police yard rapidly loses value and the fact that charge-sheet has already been filed, so the evidentiary stage of seizure and documentation is substantially complete, and the possibility of taking photographs and noting identifying particulars (engine and chassis numbers, etc.) to protect evidentiary integrity. In this factual matrix, the petitioner's claim is squarely within the class of cases where the Supreme Court has recommended a conditional release approach, rather than an absolute refusal.

28. The impugned order essentially proceeds on the seriousness of NDPS offences; and the apprehension that A4 may re-offend and that the vehicle may not be produced. However, it does not analyse the statutory framework under Sections 36-C, 51, 60(3) and 63 of the NDPS Act vis-à-vis Sections 451 / 457 Cr.P.C.,1973 (497 / 503 BNSS) or refer to or apply the Supreme Court decisions in **Sunderbhai Ambalal**

¹² 2025 INSC 32



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***Desai v. State of Gujarat*¹³, *Bishwajit Dey v. State of Assam*¹⁴ and**

Denash nor consider whether stringent conditions, bonds and undertakings could sufficiently secure the prosecution's interest; or weigh the countervailing hardship to the petitioner due to deterioration of the vehicle.

29. In revisional jurisdiction under Sections 483 r/w 442 BNSS, it is open to this Court to correct such legal misdirection and to ensure that subordinate courts exercise their jurisdiction in accordance with the statutory scheme and binding precedents.

30. The appropriate resolution in cases like the present one is not a binary "release vs. no release", but a calibrated order that acknowledges the gravity of the NDPS allegation and protects the prosecution's interest in future production and possible confiscation and prevents wasteful deterioration of the property and undue hardship to a *prima facie* bona fide owner.

¹³ (2002) 10 SCC 283

¹⁴ 2025 INSC 32



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31. This can be achieved by recording complete identification details of the vehicle (engine number, chassis number, photographs), requiring the petitioner to execute a substantial bond with solvent sureties, and imposing conditions against alienation, encumbrance or modification of the vehicle, directing the petitioner to produce the vehicle as and when required and to abide by the final order of confiscation, if any. If these safeguards are in place, the prosecution's concerns are adequately addressed while the principles in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁵, **Bishwajit Dey v. State of Assam**¹⁶ and Denash are given due effect.

32. This Court is, therefore, of the considered view that the impugned order cannot be sustained and that the petitioner is entitled to interim custody, subject to appropriate conditions.

33. In the result, the Criminal Revision Petition is allowed. The order dated 15.04.2025 passed in CrI.M.P.No.545 of 2025 in Crime No. 676 of 2023 by the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

¹⁵ (2002) 10 SCC 283

¹⁶ 2025 INSC 32



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34. The respondent police are directed to release the Yamaha MT-15 motorcycle bearing Registration No. TN-58-BK-5068 to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** as non-refundable deposit for the said vehicle to the credit of the Siddha Clinic, Madurai Bench of Madras High Court (A/c No.6865578213, Indian Bank, Madurai Bench of Madras High Court);
- (b) the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)**, with two sureties for a likesum to the satisfaction of the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Case, Madurai;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Case, Madurai;
- (d) The petitioner shall give an undertaking before the respondent/ authority concerned stating that he will not use the vehicle in question for any illegal activities in future, failing which the respondent/trial Court is at liberty to confiscate the



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vehicle;

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(e) the petitioner shall not alienate and shall not make any alteration in the vehicle;

(f) the petitioner shall produce the vehicle before the learned Trial Court on 1st Monday of every English calendar month;

35. It is made clear that this order is confined only to the question of interim custody of the vehicle, and shall not be construed as expressing any opinion on the merits of the prosecution in Crime No. 676 of 2023, or on the ultimate question of confiscation under Sections 60(3) and 63 of the NDPS Act. Those issues shall be decided independently by the Trial Court on the basis of evidence.

36. With the above directions, this Criminal Revision case is allowed.

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

1.The Principal Special Court for

20/22



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Narcotic Drugs and Psychotropic
Substances Act Case, Madurai,

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- 2.The Inspector of Police,
Thiruparankundram Police Station
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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