



CRL RC(MD)No.858 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.858 of 2025

K.Vanjinathan

... Petitioner

Vs.

State of Tamilnadu, Rep. by
The Station Head Officer,
Vadipatti Police Station,
Madurai.

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the orders passed in CrI.M.P.No. 564 of 2025 dated 20.03.2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai and to set aside the same as illegal and further direct the respondent to release and hand over custody of the Yamaha MT vehicle bearing Registration No. TN59 DY 0639 of Yamaha MT .

For Petitioner : Mr.K.R.Laxman

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor



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ORDER

Preface:

This Criminal Revision Petition is directed against the order dated 20.03.2025 passed in CrI.M.P.No.564 of 2025 by the learned Principal Special Judge for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, refusing interim custody of a Yamaha MT motorcycle bearing Registration No. TN-59-DY-0639, seized in connection with Crime No.362 of 2024 on the file of Vadipatti Police Station, allegedly registered for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act”).

Case of the Prosecution:

2. The prosecution case, as disclosed in Crime No.362 of 2024 and in the reply to CrI.M.P.No.564 of 2025, may be summarised thus:

The respondent police, Vadipatti Police Station, registered Crime No.362 of 2024 under relevant provisions of the NDPS Act, alleging that ganja was being sold by accused persons, including Accused No.1 / Maduraiveeran. In the course of the investigation, it is alleged that Accused No.1 / Maduraiveeran used a Yamaha MT motorcycle bearing Reg. No. TN-59-DY-0639 to move around and sell ganja. The vehicle



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was seized along with contraband, and was treated as case property / conveyance used in the commission of the alleged NDPS offence.

3. The case materials indicate that the motorcycle belongs to the present petitioner, who had given it to Accused No.1. The prosecution does not say that the petitioner is an accused; its objection is based on the use of the vehicle by Accused No.1. It is further stated in the reply that on 17.12.2024, Accused No.3 / Kamesh was also arrested and examined; from the statements of accused persons, the police infer that Accused No.1 used the vehicle bearing registration No.TN-59-DY-0639 for selling ganja. The Accused No.1 has been released on bail, but the vehicle remains in station custody.

4. The prosecution contends that if the motorcycle is handed over to the petitioner, there is a likelihood that he may: help the accused to re-engage in similar NDPS activities using the vehicle; and sell the vehicle, thereby defeating any future order of confiscation. On these bases, the prosecution strongly objects to interim release of the vehicle.



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Case of the Petitioner:

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5. The petitioner's case, as set out in CrI.M.P.No.564 of 2025 and reiterated before this Court, is as follows:

The petitioner is the owner of the Yamaha MT motorcycle bearing Registration No. TN-59-DY-0639. The Registration Certificate stands in his name. He had given the two-wheeler to Accused No.1 / Maduraiveeran, who is known to him. Thereafter, a case in Crime No. 362 of 2024 was registered against Accused No.1 and others, and the said vehicle was seized as part of the case. Accused No.1 has since been released on bail, whereas the vehicle remains remanded to station custody. The motorcycle has been in the custody of the respondent police since 14.12.2024. It is lying in the open, and is subject to natural decay due to rain, sunlight, and other elements. If it continues to be kept in that condition, it will rapidly lose its value, become mechanically unsound and ultimately useless.

6. The petitioner asserts that he has no role in the alleged NDPS offence, and that he had given the vehicle to Accused No.1 in the ordinary course; he is not arrayed as an accused in the case. He contends that, as the registered owner, he is entitled to seek interim



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custody of the vehicle, particularly when its continued retention in open police custody serves no useful purpose and results in economic waste. The petitioner undertakes to produce the vehicle whenever required, and to abide by any conditions that may be imposed by the Court. On these grounds, he seeks release of the motorcycle on interim custody.

Gist of the Impugned Order:

7. By order dated 20.03.2025 in Crl.M.P.No.564 of 2025, the learned Principal Special Judge for NDPS Act Cases, Madurai, dismissed the petitioner's application. The gist of the reasoning, as can be gathered from the order and pleadings, is:

The motorcycle bearing Reg. No. TN-59-DY-0639 Yamaha MT was seized in connection with Crime No.362 of 2024, in which it is alleged that Accused No.1 / Maduraiveeran used the vehicle for selling ganja. The Accused No.1 has been released on bail, but the vehicle continues to be treated as a material object / case property and is kept in police station custody. The police claim that, based on the enquiry of Accused No.3 and others, it has emerged that Accused No.1 extensively used the said vehicle for sale of ganja.



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8. The Court accepted the prosecution's apprehension that if the vehicle is handed over to the petitioner, he may assist in similar offences by making it available for such use, or he may sell the vehicle, thereby jeopardising the prosecution's ability to secure its production for trial and possible confiscation. Having regard to these apprehensions, and the nature of the NDPS offence, the learned Special Judge refused to grant interim custody and dismissed the petition.

Grounds of Revision:

9. The petitioner challenges the impugned order on the following grounds:

The learned Special Judge erred in failing to appreciate that the petitioner is the registered owner of the vehicle and is not an accused in Crime No.362 of 2024. The Court below did not properly apply the provisions of Sections 451 and 457 Cr.P.C., 1973 / Sections 497 and 503 BNSS, 2023 read with Sections 36-C and 51 of the NDPS Act, which clearly confer jurisdiction on the criminal Court to make orders for interim custody and proper preservation of seized property. The Special Court misdirected itself by treating the apprehension of possible future misuse as a sufficient ground to deny interim custody, without



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examining whether such apprehension could be adequately met by imposing stringent conditions, bonds and undertakings.

10. The impugned order ignores binding Hon'ble Supreme Court decisions in ***Sunderbhai Ambalal Desai v. State of Gujarat***¹, ***Bishwajit Dey v. State of Assam***² and ***Denash v. State of Tamil Nadu***³, which have held that vehicles should not be allowed to rot in police custody and that Courts must actively consider interim release on proper terms. The learned Judge failed to consider the hardship and economic loss to the petitioner arising from prolonged detention and exposure of the motorcycle in an open yard, leading to depreciation, mechanical deterioration and loss of utility.

11. The reasoning is cryptic and one-sided, giving undue importance to the prosecution's apprehensions and insufficient weight to the rights of a *prima facie* bona fide owner, the statutory safeguards in Sections 60(3) and 63 of the NDPS Act, and the general scheme of

1 (2002) 10 SCC 283

2 2025 INSC 32

3 2025 SCC OnLine 2276



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criminal procedure relating to seized property.

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Submissions:

12. Mr. K.R. Laxman, learned counsel for the petitioner, submitted that the petitioner is the registered owner and not an accused; his vehicle was misused by Accused No.1 without his knowledge or consent. There is nothing on record to suggest his complicity. Under Section 36-C of the NDPS Act, the provisions of the Code of Criminal Procedure, 1973 (now BNSS) apply to NDPS proceedings except where expressly inconsistent. Section 51 of the NDPS Act extends the Code to searches, seizures etc., again subject to non-inconsistency.

13. Sections 451 and 457 Cr.P.C., 1973 / 497 and 503 BNSS, 2023, empower the criminal Court to make orders regarding interim custody, delivery and disposal of seized property, including vehicles, with a view to their proper custody and preservation. Confiscation and final deprivation of property are governed by Sections 60 and 63 of the NDPS Act, which require a judicial determination, post-trial or in an appropriate proceedings, after giving the owner an opportunity of being



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heard. The present stage is only one of interim custody, not confiscation.

14. He relied on **Sunderbhai Ambalal Desai v. State of Gujarat**⁴, where the Hon'ble Supreme Court emphasised that vehicles should not be allowed to lie in police custody for long periods, as they depreciate and become junk; instead, they should ordinarily be returned on *superdari* with appropriate safeguards. He placed reliance on **Bishwajit Dey v. State of Assam**⁵, wherein the Hon'ble Supreme Court classified typical scenarios involving seizure from conveyances and held that, in cases where the owner is not directly involved or is at least *prima facie* a bona fide owner, release of the vehicle on proper conditions should be the norm, not the exception.

15. He further invoked **Denash v. State of Tamil Nadu**⁶, where the Hon'ble Supreme Court clarified that administrative mechanisms and NDPS disposal rules cannot divest the Court of jurisdiction under

4 (2002) 10 SCC 283

5 2025 INSC 32

6 2025 SCC OnLine 2276



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Sections 451 / 457 Cr.P.C., 1973, (497 / 503 BNSS), nor can they override the safeguards for owners under Sections 60(3) and 63 of the NDPS Act. The petitioner is willing to furnish adequate bond, sureties and an affidavit restricting use and alienation and undertaking to produce the vehicle as and when directed. On these grounds, he contended that the impugned order is contrary to settled law and that interim custody should be granted.

16. Mr.T.Senthilkumar, learned Additional Public Prosecutor, submitted that the vehicle was used by Accused No.1 / Maduraiveeran for selling ganja, as revealed during the investigation and from the statements of co-accused, particularly Accused No.3. The NDPS Act is a stringent special statute, and vehicles used in the commission of NDPS offences are liable to confiscation under Section 60 of the NDPS Act. The apprehension of the prosecution is that, if the motorcycle is returned to the petitioner, he may facilitate the same accused in re-committing NDPS offences, and may also sell the vehicle, making it unavailable for production at trial or for confiscation. These apprehensions, given the nature of NDPS offences, are justified; the learned Special Judge has, therefore, correctly refused to release the vehicle. The State, therefore, supported the impugned order and prayed



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for dismissal of the revision.

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17. Heard the learned counsels on either sides and carefully perused the materials available on record.

Point for Consideration:

18. In view of the rival submissions and the materials on record, the point that arises for consideration is whether the learned Principal Special Judge for NDPS Act Cases, Madurai, was justified in refusing interim custody of the Yamaha MT motorcycle bearing Reg. No. TN-59-DY-0639 to the petitioner, on the basis of apprehended future misuse and possible sale, or whether, in the light of Sections 36-C, 51, 60(3) and 63 of the NDPS Act read with Sections 497 and 503 BNSS, 2023, and the principles laid down in ***Sunderbhai Ambalal Desai v. State of Gujarat***⁷, ***Bishwajit Dey v. State of Assam***⁸ and ***Denash v. State of Tamil Nadu***⁹, the vehicle ought to be released to the petitioner on stringent conditions.

⁷ (2002) 10 SCC 283

⁸ 2025 INSC 32

⁹ 2025 SCC OnLine 2276



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Analysis:

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19. As already noticed, Section 36-C of the NDPS Act incorporates the provisions of the Cr.P.C., 1973, into proceedings before the learned Special Court “save as otherwise provided”; Section 51 of the NDPS Act similarly applies the Code to warrants, arrests, searches and seizures, subject to non-inconsistency.

20. The general provisions relating to seized property are contained in Section 451 Cr.P.C., 1973 / Section 497 BNSS – providing for custody and disposal of property pending enquiry or trial; Section 457 Cr.P.C., 1973 / Section 503 BNSS, 2023, enabling the Court to determine the person entitled to possession and to order delivery or other appropriate directions.

21. Section 60(3) of the NDPS Act makes a conveyance used to carry narcotic drugs liable to confiscation unless the owner proves absence of knowledge / connivance and due precautions. Section 63 of the NDPS Act mandates that confiscation can only be ordered after judicial adjudication and notice and hearing to those claiming a right to the property. The statutory scheme clearly distinguishes interim



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custody (governed by the Code / BNSS) from final confiscation (governed by Sections 60 and 63 of the NDPS Act). Interim release of a vehicle on conditions does not amount to denial of the Court's power to confiscate later; it merely avoids physical decay and economic waste pending adjudication.

22. There is no express inconsistency between the NDPS Act and Sections 451 / 457 Cr.P.C., 1973 (497 / 503 BNSS, 2023). Therefore, the criminal Court retains jurisdiction to deal with seized vehicles, even in NDPS matters, subject to respecting the confiscation scheme.

23. In ***Sunderbhai Ambalal Desai v. State of Gujarat***¹⁰, the Hon'ble Supreme Court strongly deprecated the practice of allowing vehicles to remain in police custody for long periods, resulting in decay, and directed the Trial Courts to release such vehicles to owners on *superdari* with necessary safeguards.

24. In ***Bishwajit Dey v. State of Assam***¹¹, the Hon'ble Supreme

¹⁰ (2002) 10 SCC 283

¹¹ 2025 INSC 32



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Court recognised the recurring problem of vehicles languishing in police stations. It analysed different factual patterns involving seizure from conveyances and held that in cases where the registered owner or a bona fide claimant is not clearly complicit, or where complicity is yet to be adjudicated, the normal approach should favour interim release on proper bonds and undertakings. It further emphasised that criminal Courts must adopt a practical, balanced approach, mindful of both the need to preserve case property for justice and the need to avoid unnecessary destruction of valuable assets.

25. In ***Denash v. State of Tamil Nadu***¹², the Hon'ble Supreme Court clarified that the administrative disposal mechanisms or rules under the NDPS Act (e.g., Drug Disposal Committees, disposal rules) are subordinate to the statute and cannot displace the Court's jurisdiction under Sections 451 / 457 Cr.P.C., 1973 (497 / 503 BNSS, 2023). These mechanisms cannot override the rights of owners under Sections 60(3) and 63 of the NDPS Act to a judicial determination of confiscation after hearing. A claimant cannot be told to await administrative disposal or to challenge administrative action later; the criminal Court remains the primary forum for considering interim custody applications.

12 2025 SCC OnLine 2276

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26. Although ***Denash v. State of Tamil Nadu***¹³ and ***Bishwajit Dey v. State of Assam***¹⁴ arose in slightly different factual contexts, their core principles apply here: Courts must actively consider interim release of vehicles, and may not abdicate such jurisdiction solely based on apprehensions, when those apprehensions can be addressed by stringent conditions.

27. The prosecution's concerns that, the vehicle may again be used for selling ganja, and may not be produced for trial or confiscation, are relevant, but not conclusive. The correct legal question is not: "Could misuse possibly happen?" – since that possibility can exist in many cases – but rather: "Can the risk be sufficiently mitigated by appropriate conditions, bonds and oversight, such that the ends of justice are served without unnecessary destruction of property?"

28. The Hon'ble Supreme Court in ***Bishwajit Dey v. State of Assam***¹⁵ and ***Denash v. State of Tamil Nadu***¹⁶ indicates that, in a large class of cases, the answer is yes: rigorous conditions can

¹³ 2025 SCC OnLine 2276

¹⁴ 2025 INSC 32

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safeguard the prosecution's interests while preserving the owner's property.

29. In the present matter, the petitioner is the registered owner; he is not an accused in Crime No.362 of 2024. The allegation is that the Accused No.1 used the vehicle to sell ganja. Whether the petitioner had knowledge or connived, or whether he took reasonable precautions, is a matter to be examined at the stage of Section 60(3) and 63 of the NDPS adjudication, not to be conclusively presumed now. The vehicle has been kept in police custody since 14.12.2024, exposed to natural elements, which will inevitably depreciate its value and impair its condition.

30. There is no assertion that the mechanical and evidentiary examination of the vehicle is incomplete. Photographs, seizure mahazars and identification details can effectively preserve its evidentiary value. The prosecution's apprehension that the petitioner may help the accused to reoffend or may sell the vehicle, can be effectively neutralised by: requiring a substantial bond and solvent

15 2025 INSC 32

16 2025 SCC OnLine 2276

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sureties, imposing strict conditions against alienation or encumbrance, directing that the vehicle shall not be transferred or structurally altered, and binding the petitioner to produce the vehicle whenever required and to abide by final confiscation orders, if any.

31. In contrast, if the vehicle continues to remain in the open yard, the petitioner will suffer irreparable economic loss, and even if he ultimately succeeds in showing lack of knowledge under Section 60(3) of the NDPS Act, the relief would be largely illusory since the asset would have substantially depreciated. Weighing these considerations, and applying the approach mandated by **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁷, **Bishwajit Dey v. State of Assam**¹⁸ and **Denash v. State of Tamil Nadu**¹⁹, this Court is satisfied that the learned Special Court's absolute refusal to grant interim custody, based purely on apprehensions and without exploring the possibility of conditional release, is legally unsustainable.

32. In the result, this Criminal Revision Petition is allowed. The order dated 20.03.2025 passed in CrI.M.P.No.564 of 2025 on the file of

¹⁷ (2002) 10 SCC 283

¹⁸ 2025 INSC 32

¹⁹ 2025 SCC OnLine 2276



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the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

33. The respondent is directed to release the Yamaha MT motorcycle bearing Registration No. TN-59-DY-0639 to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the 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 Court for NDPS act cases, Madurai;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Principal Special Court for NDPS act cases, Madurai;
- (d) The petitioner shall give an undertaking before the



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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 vehicle;

- (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 every Monday of English calendar month;

34. It is made clear that this order relates only to interim custody of the vehicle and shall not be construed as expressing any opinion on the merits of the prosecution in Crime No.362 of 2024 or on the ultimate question of confiscation under the NDPS Act. Those issues shall be independently decided by the learned Trial Court on the basis of evidence.

35. With the above observations, this Criminal Revision Petition is allowed.



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To

- 1.The Principal Special Judge,
Principal Special Court for Narcotic
Drugs and Psychotropic Substances Act Cases,
Madurai.
- 2.The Station Head Officer,
Vadipatti Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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