



CRL RC(MD)No.811 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.811 of 2025

Kumaresan

... Petitioner

Vs.

The State of Tamilnadu, Rep. by
The Inspector of Police,
PEW Police Station,
Cuddalore District.
(Crime No.98/2025)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the entire records pertaining to the order passed by the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District in CrI.M.P.No. 2680 of 2025 vide order dated 27.05.2025 and set aside the same and consequently, direct the above said learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District to return the petitioner's Hero Splendor Plus two-wheeler bearing its registration number PY-01-CA-8142 kept in the custody of the above said Court in connection with the case in Crime No. 98 of 2025 on the file of the respondent police.



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CRL RC(MD)No.811 of 2025

For Petitioner : Mr.R.L.Dhilipan Pandian

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

ORDER

This Criminal Revision Petition is directed against the order dated 27.05.2025 passed in CrI.M.P.No.2680 of 2025 on the file of the learned Additional District Judge / Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur, by which the application filed by the petitioner seeking interim custody of his Hero Splendor Plus motorcycle bearing Registration No.PY-01-CA-8142, seized in connection with Crime No.98 of 2025 on the file of PEW Police Station, Cuddalore District, came to be dismissed.

Case of the Prosecution:

2. The brief facts, as projected by the prosecution, are that Crime No.98 of 2025 has been registered on the file of PEW Police Station, Cuddalore District, for the offences under Section 8(c) read with 20(b)(ii) (B) of the NDPS Act. On the date of occurrence in the year 2025, the respondent police are stated to have intercepted the petitioner, who is arrayed as Accused No.1, while he was riding a Hero Splendor Plus



CRL RC(MD)No.811 of 2025

motorcycle bearing Registration No.PY-01-CA-8142. Upon search, the police allegedly found ganja in intermediate quantity in his possession / in connection with the use of the said motorcycle. The contraband was seized and the motorcycle was treated as the conveyance used for transporting ganja. The vehicle was produced before the jurisdictional Court and is presently kept in the custody of the Court / police and, as is common to such cases, remains in long-term open-area custody, exposed to weather conditions. The investigation is stated to be pending.

Case of the Petitioner:

3. The petitioner contended before the learned Trial Court that he is the registered owner of the Hero Splendor Plus motorcycle bearing Registration No.PY-01-CA-8142. He asserted that the said vehicle is essential for his daily mobility and for his livelihood, inasmuch as it is used by him to commute for work and to attend to his day-to-day affairs. He further pleaded that ever since the seizure, the motorcycle has been lying idle in the premises of the police station without proper maintenance, exposed to rain, sun and other natural elements, resulting in rapid deterioration of its mechanical condition and market value.



CRL RC(MD)No.811 of 2025

4. The petitioner gave an undertaking that he would produce the motorcycle before the Court or the Investigating Officer as and when required, that he would not alienate or encumber the vehicle, and that he would not permit its use for any unlawful purpose. He placed reliance on the decisions of the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹ and **Bishwajit Dey v. State of Assam**² to contend that vehicles should not be allowed to rot in police custody, and therefore sought interim custody of the motorcycle by invoking the powers of the Court under Sections 497 and 503 of the BNSS, subject to such conditions as may be imposed.

Gist of the Impugned Order:

5. By the impugned order dated 27.05.2025 in CrI.M.P.No.2680 of 2025, the learned Additional District Judge / Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur, dismissed the petition filed by the petitioner for interim custody. A reading of the order shows that the Court mainly proceeded on the reasoning that, since the petitioner himself is an accused in the NDPS case and the vehicle is allegedly involved in the commission of the offence, the release of the

1 (2002) 10 SCC 283

2 2025 INSC 32



CRL RC(MD)No.811 of 2025

motorcycle on interim custody would be inappropriate and may lead to misuse or possible sale of the vehicle. The Court also appears to have accepted the apprehension that the petitioner may fail to produce the vehicle at a later stage, thereby hampering the trial and any prospective confiscation.

6. Significantly, the trial Court did not examine the effect of Sections 60(3) and 63 of the NDPS Act, did not discuss the application of Sections 36-C and 51 of the NDPS Act which import the Cr.P.C./BNSS into NDPS proceedings, and did not advert to the principles laid down in **Sunderbhai Ambalal Desai v. State of Gujarat**³, **Sainaba v. State of Kerala**⁴, **Bishwajit Dey v. State of Assam**⁵, **Tarun Kumar Majhi v. State of West Bengal**⁶ and **Denash v. State of Tamil Nadu**⁷, nor did it undertake a balancing exercise between the prosecutorial interest and the need to preserve the value of the seized property.

³ (2002) 10 SCC 283

⁴ 2022 SCC OnLine SC 1784

⁵ 2025 INSC 32

⁶ 2025 SCC OnLine SC 2362

⁷ 2025 SCC OnLine 2276



CRL RC(MD)No.811 of 2025

Grounds of Revision:

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7. The petitioner has challenged the impugned order on several grounds. It is contended that the trial Court has incorrectly treated the mere fact of seizure under the NDPS Act and the petitioner's status as an accused as creating an absolute bar to interim custody, which is legally unsustainable. It is urged that the Court failed to recognise that Section 60(3) of the NDPS Act confers on the owner a substantive right, at the stage of confiscation, to demonstrate lack of knowledge or connivance and that Section 63 mandates a judicial enquiry before any order of confiscation is passed. The petitioner further contends that the Court below did not exercise its general powers under Sections 497 and 503 of the BNSS to prevent waste and deterioration of the property and to secure its availability for trial through appropriate conditions.

Submissions:

8. The learned counsel for the petitioner, drawing upon the reasoning in **Denash v. State of Tamil Nadu**⁸ and **Bishwajit Dey v. State of Assam**⁹, submitted that Sections 497 and 503 of the BNSS fully apply to NDPS cases by virtue of Sections 36-C and 51 of the NDPS

⁸ 2025 SCC OnLine 2276

⁹ 2025 INSC 32



CRL RC(MD)No.811 of 2025

Act, which provide that the provisions of the Code of Criminal Procedure (now BNSS) shall apply to proceedings under the NDPS Act insofar as they are not inconsistent with the Act. He contended that there is no provision in the NDPS Act which prohibits the grant of interim custody of a vehicle seized in connection with an NDPS offence.

9. He further submitted that the 2022 Disposal Rules framed under Section 52-A deal primarily with inventory, storage and procedural disposal and that, as held in **Denash v. State of Tamil Nadu**¹⁰, they cannot override either the substantive rights of the owner under Sections 60(3) and 63 of the NDPS Act or the judicial powers of the Court under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS).

10. The learned counsel emphasised that the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹¹, **Sainaba v. State of Kerala**¹² and **Bishwajit Dey v. State of Assam**¹³ has repeatedly held that seized vehicles should not be allowed to lie in police

¹⁰ 2025 SCC OnLine 2276

¹¹ (2002) 10 SCC 283

¹² 2022 SCC OnLine SC 1784



CRL RC(MD)No.811 of 2025

stations and deteriorate, and that criminal courts are expected to pass appropriate orders to prevent such waste, by releasing vehicles to their owners on superdari with appropriate safeguards. He contended that the fact that the petitioner is an accused does not extinguish his property rights pending trial and that any legitimate fear of future misuse or non-production can be adequately addressed by imposing conditions such as execution of a substantial bond, furnishing solvent sureties, prohibition on alienation and permitting inspection by the Investigating Officer.

11. Per contra, the learned Additional Public Prosecutor contended that the petitioner is arrayed as Accused No.1 in Crime No. 98 of 2025, that he was allegedly found in possession of ganja while riding the Hero Splendor Plus motorcycle and that the vehicle was directly used for transporting the contraband. It was argued that, in such a situation, the case falls within the category where, as indicated in ***Bishwajit Dey v. State of Assam*¹⁴**, the courts should exercise greater caution in granting interim custody. The learned Additional Public Prosecutor also contended that NDPS is a stringent special

13 2025 INSC 32

14 2025 INSC 32



CRL RC(MD)No.811 of 2025

statute intended to combat a grave societal menace and that vehicles used in such offences are liable for confiscation. He argued that releasing the vehicle may enable repetition of the offence or may lead to the vehicle being sold, thereby frustrating possible confiscation. Reliance was placed generally on the strict nature of the NDPS regime and on the need to give full effect to the 2022 Disposal Rules.

12. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

13. In the backdrop of the above rival contentions, the point that arises for consideration in this Criminal Revision Petition is whether the refusal by the Special Court to grant interim custody of the Hero Splendor Plus motorcycle bearing Registration No.PY-01-CA-8142 to the petitioner–accused is legally sustainable in the light of Sections 497 and 503 of the BNSS, Sections 52-A, 60(3) and 63 of the NDPS Act, the 2022 Disposal Rules and the binding judgments of the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***¹⁵ and ***Bishwajit Dey v.***

¹⁵ 2025 SCC OnLine 2276



CRL RC(MD)No.811 of 2025

State of Assam¹⁶, or whether this is a fit case in which interim custody ought to be granted subject to appropriate safeguards.

Analysis:

14. At the outset, it is necessary to reiterate the legal position that Sections 497 and 503 BNSS (corresponding to Sections 451 and 457 Cr.P.C.) invest criminal courts with broad jurisdiction to make orders regarding the interim custody and preservation of property produced before them or reported to them as having been seized by the police. These provisions empower courts to direct delivery of such property to persons appearing to be entitled to possession and to impose conditions including bonds and sureties to ensure production of the property as and when required. There is nothing in the text of the NDPS Act which excludes the application of these provisions to property seized in connection with NDPS offences.

15. Sections 36-C and 51 of the NDPS Act specifically provide that the provisions of the Code of Criminal Procedure (and now the BNSS) shall apply to proceedings before the Special Court and to warrants,

¹⁶ 2025 INSC 32



CRL RC(MD)No.811 of 2025

arrests, searches and seizures under the NDPS Act, insofar as they are not inconsistent with the provisions of the Act. The NDPS Act does not lay down any special procedure excluding or replacing the general interim custody powers of criminal courts; rather, it supplements the general law by introducing special rules on search, seizure, presumptions and confiscation. Therefore, the jurisdiction under Sections 497 and 503 BNSS stands preserved.

16. Section 52-A of the NDPS Act, along with the 2022 Disposal Rules, deals with the preparation of inventory, sampling, certification and administrative disposal of seized narcotic drugs, psychotropic substances, controlled substances and conveyances. As clarified by the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***¹⁷, these rules are intended to streamline administrative management and disposal of seized materials and do not constitute a parallel adjudicatory regime on questions of ownership or confiscation. The power to decide whether a vehicle is liable to be confiscated remains, under Sections 60(3) and 63 of the NDPS Act, a judicial power to be exercised by the Court.

¹⁷ 2025 SCC OnLine 2276



CRL RC(MD)No.811 of 2025

17. The Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁸, while dealing with seized vehicles, strongly deprecated the practice of allowing such vehicles to remain in police stations for long periods, noting that they would inevitably deteriorate, become worthless and that their prolonged custody serves no useful purpose for the prosecution. The Court held that Magistrates should normally release such vehicles to the rightful claimants on appropriate bonds and conditions. These principles were applied by the Hon'ble Supreme Court to NDPS matters as well in **Sainaba v. State of Kerala**¹⁹, where a vehicle seized in connection with an NDPS case was directed to be returned on conditions, thereby affirming that the powers under Section 451 Cr.P.C. (now Section 497 BNSS) are available even in NDPS prosecutions.

18. In **Bishwajit Dey v. State of Assam**²⁰, the Hon'ble Supreme Court undertook a detailed examination of scenarios involving seizure of contraband from vehicles. It set out certain guiding principles, emphasising that criminal courts must adopt a realistic, fact-sensitive

¹⁸ (2002) 10 SCC 283

¹⁹ 2022 SCC OnLine SC 1784

²⁰ 2025 INSC 32



CRL RC(MD)No.811 of 2025

approach rather than applying an inflexible rule. While the Hon'ble Supreme Court did acknowledge that greater caution is required where the owner himself is an accused or where his direct agent is caught in the act of transporting contraband, the Court did not hold that interim custody is prohibited in such cases. Instead, it recognised that courts may grant interim custody even in such situations, albeit with more stringent safeguards.

19. In ***Denash v. State of Tamil Nadu***²¹, the Hon'ble Supreme Court addressed the specific contention that, after the coming into force of the 2022 Disposal Rules, the power of criminal courts to grant interim custody of vehicles in NDPS cases stood eclipsed and that only the Drug Disposal Committee could deal with such vehicles. The Court categorically rejected that contention, holding that the 2022 Rules are supplemental and cannot be read as divesting the Courts of their jurisdiction under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS). It was reiterated that confiscation is a matter for judicial decision under Section 63 and that an innocent or even an accused owner cannot be left remediless by indefinite detention of his vehicle in the name of the NDPS regime.

²¹ 2025 SCC OnLine 2276



CRL RC(MD)No.811 of 2025

20. Applying these principles to the present case, it is no doubt true that the petitioner is arrayed as Accused No.1 and is alleged to have been found with ganja while using the motorcycle. This feature calls for cautious exercise of discretion. However, it does not, in law, preclude the grant of interim custody. The motorcycle is a small, personal vehicle; it is a depreciating asset; and if it is left unused in the police station, it is likely to deteriorate significantly, both mechanically and in market value. The investigation is still pending; trial has not commenced. The question of confiscation can only be decided at a later stage, on evidence, in accordance with Section 63 of the NDPS Act. Confiscation cannot be assumed or pre-judged at this stage.

21. The apprehension expressed by the prosecution that the petitioner may again use the vehicle for illegal activities or may dispose of it is essentially speculative. Such apprehensions can be effectively addressed by imposing stringent conditions, including execution of a substantial bond equivalent to the value of the vehicle, furnishing of solvent sureties, a clear prohibition on alienation or encumbrance, and by requiring the petitioner to produce the vehicle as and when directed by the Court or the Investigating Officer. These measures sufficiently protect the interests of the prosecution and the possibility of future



CRL RC(MD)No.811 of 2025

confiscation, while allowing the owner to preserve the utility and value of his property pending trial.

22. On the other hand, a refusal to grant interim custody in all NDPS cases, merely because the owner is an accused and the vehicle is alleged to have been used in the commission of the offence, would amount to reading into the statute a prohibition which does not exist and would run contrary to the ratio laid down by the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**²² and **Bishwajit Dey v. State of Assam**²³. The impugned order has, in effect, taken such a view and has rejected the petition without advertng to the statutory framework and the binding precedents. This Court is, therefore, of the considered view that the impugned order suffers from non-application of mind to relevant provisions and principles and cannot be allowed to stand.

23. For the reasons aforesaid, this Court holds that the learned Additional District Judge / Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur, was not justified in dismissing

²² 2025 SCC OnLine 2276

²³ 2025 INSC 32



CRL RC(MD)No.811 of 2025

Crl.M.P.No.2680 of 2025 and in refusing interim custody of the Hero Splendor Plus motorcycle bearing Registration No.PY-01-CA-8142 to the petitioner.

24. Accordingly, the Criminal Revision Petition is allowed. The order dated 27.05.2025 passed in Crl.M.P.No.2680 of 2025 is set aside. The respondent is directed to release the Hero Splendor Plus motorcycle bearing Registration No.PY-01-CA-8142 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 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 deposit the original Registration Certificate of the vehicle before the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District;
- (c) The petitioner shall give an undertaking before the respondent/ authority concerned stating that he will not use



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CRL RC(MD)No.811 of 2025

the vehicle in question for any illegal activities in future, failing which the respondent/trial Court is at liberty to confiscate the vehicle;

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

(e) the petitioner shall produce the vehicle before the learned Trial Court on every day;

25. It is made clear that this order relates solely to interim custody of the vehicle and shall not be construed as expressing any opinion on the merits of the prosecution in Crime No.98 of 2025 or on the ultimate liability of the vehicle to be confiscated under the NDPS Act.

26. With the above directions, this Criminal Revision Petition is allowed.

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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CRL RC(MD)No.811 of 2025

To

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- 1.The Additional District Judge / Presiding Officer,
Special Court under Essential
Commodities Act, Thanjavur District
- 2.The Inspector of Police,
PEW Police Station,
Cuddalore District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CRL RC(MD)No.811 of 2025

L.VICTORIA GOWRI, J.,

Sml

CRL RC(MD)No.811 of 2025

27.11.2025