



CRL RC(MD)No.869 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.869 of 2025

Deepak Bindre

... Petitioner

Vs.

State, Rep. by
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.
(Crime No.67/2025)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records passed in CrI.M.P.No.1521 of 2025 dated 30.06.2025 of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, pertaining to Crime No.67 of 2025 on the file of the Respondent Police consequently direct the respondent to grant the interim custody of the Petitioner's Vehicle Car and Bike bearing Registration Nos.TN-74-BB-8643 Maruthi swift Car and TN-74-BD3600 Jawa (two wheeler) to the Petitioner by allowing this Revision.

For Petitioner : Mr.B.Micheal Sebastin

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



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ORDER

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This Criminal Revision Petition is directed against the order dated 30.06.2025 passed in Crl.M.P.No.1521 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, by which the application filed by the petitioner seeking interim custody of his Maruti Swift Car bearing Registration No.TN-74-BB-8643 and Jawa Two Wheeler bearing Registration No.TN-74-BD-3600, seized in connection with Crime No.67 of 2025 on the file of Kottar Police Station, Kanyakumari District, came to be dismissed.

Case of the Prosecution:

2. The case of the prosecution, in brief, is that Crime No.67 of 2025 was registered on the file of Kottar Police Station, Kanyakumari District, for offences under the NDPS Act. It is alleged that on 29.01.2025, the respondent police intercepted and arrested the petitioner, who is shown as Accused No.1, along with a co-accused, on the allegation that they were engaged in selling ganja. According to the prosecution, the sale and transportation of ganja were carried out by using two vehicles, namely (i) a Maruti Swift Car bearing Registration



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No.TN-74-BB-8643 and (ii) a Jawa Motorcycle bearing Registration No.TN-74-BD-3600. Both vehicles were seized during investigation as conveyances used in the commission of the alleged NDPS offence. The vehicles are presently under the custody of the respondent police / before the jurisdictional Special Court as case properties.

Case of the Petitioner:

3. The petitioner, in Crl.M.P.No.1521 of 2025, asserted that he is the rightful and registered owner of the Maruti Swift Car bearing Registration No.TN-74-BB-8643 and the Jawa Motorcycle bearing Registration No.TN-74-BD-3600. He characterised the said vehicles as his valuable movable properties which are necessary for his daily use and livelihood. He stated that both vehicles are presently kept in the open in the police station or court campus, exposed to sun, rain and other natural elements, resulting in rapid deterioration of their mechanical condition and market value.

4. The petitioner further submitted that, beyond what is alleged in the FIR and investigation, the question of his guilt or innocence is a matter that lies within the domain of the trial Court and that no adverse



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conclusion can be drawn against him at this stage so as to justify destruction of his property by neglect. He contended that, if the vehicles continue to remain idle and unused for a prolonged period, they will become unfit for road use and virtually valueless, causing him grave hardship and substantial financial loss. He gave an undertaking to the effect that he would produce the vehicles whenever directed by the trial Court, that he would not alienate or encumber the same, and that he would abide by any stringent conditions which the Court may impose. On this basis, he prayed for interim custody of both vehicles under the powers corresponding to Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS).

Stand of the Prosecution before the learned Trial Court:

5. The respondent police filed objections before the trial Court and opposed the petition. They reiterated that the petitioner is Accused No.1 in Crime No.67 of 2025 and that, at the time of arrest, the petitioner and the co-accused were allegedly selling ganja by using the very same car and motorcycle which are now sought to be released. It was contended that if the vehicles are returned to the petitioner, there exists a likelihood that he may abscond to another State along with the vehicles, thereby hampering the progress of the prosecution. It was



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further contended that there is an apprehension that the petitioner may sell the vehicles, which would frustrate any future order of confiscation. On these grounds, the prosecution strongly objected to handing over either of the vehicles to the petitioner on interim custody.

Gist of the Impugned Order:

6. By the impugned order dated 30.06.2025 in CrI.M.P.No.1521 of 2025, the learned Principal Special Judge for NDPS Act Cases, Madurai, dismissed the petition filed by the petitioner. The learned Special Judge emphasised that the petitioner is Accused No.1 in the case and that both the Maruti Swift Car and the Jawa Motorcycle were allegedly used in the sale of ganja. The Court accepted the apprehension expressed by the prosecution that, if the vehicles were returned, the petitioner might abscond with them or sell them, thereby affecting the conduct of the trial and potential confiscation of the vehicles at a later stage.

7. However, a reading of the impugned order reveals that the learned Special Judge did not examine the scope and applicability of Sections 497 and 503 of the BNSS (corresponding to Sections 451 and 457 Cr.P.C.), did not consider the legal position clarified by the Hon'ble



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Supreme Court in ***Denash v. State of Tamil Nadu***¹, ***Bishwajit Dey v. State of Assam***², ***Sainaba v. State of Kerala***³, ***Sunderbhai Ambalal Desai v. State of Gujarat***⁴ or ***Tarun Kumar Majhi v. State of West Bengal***⁵. The order does not reflect any balancing of the hardship to the owner arising from prolonged idle custody of the vehicles against the prosecutorial interests and the possibility of imposing safeguards.

Grounds of Revision:

8. The petitioner has challenged the impugned order on several grounds. It is contended that the Special Court erred in assuming that, merely because the petitioner is Accused No.1 and the vehicles stand seized in an NDPS case, those vehicles cannot be released on interim custody. It is further contended that the trial Court failed to consider that Sections 36-C and 51 of the NDPS Act expressly make the provisions of the Code of Criminal Procedure (and now the BNSS),

¹ 2025 SCC OnLine 2276

² 22025 INSC 32

³ 2022 SCC OnLine SC 1784

⁴ (2002) 10 SCC 283

⁵ 2025 SCC OnLine SC 2362



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including Sections 497 and 503, applicable to proceedings under the NDPS Act except where there is inconsistency.

9. The petitioner also submits that confiscation under Section 60(3) of the NDPS Act is not automatic and that Section 63 mandates a judicial enquiry, after affording the owner an opportunity of being heard, before any order of confiscation can be passed. It is argued that an anticipated or possible future confiscation is not a valid ground to deny interim custody at the very threshold. The petitioner contends that the impugned order is contrary to the law declared by the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁶ and **Bishwajit Dey v. State of Assam**⁷, which recognise that Courts retain full jurisdiction to consider interim release of vehicles even in NDPS cases.

10. He further points out that the vehicles are depreciating assets and that continued exposure to open-yard conditions leads to waste, decay and loss of value, in direct contravention of the principles laid down in **Sunderbhai Ambalal Desai v. State of Gujarat**⁸ and

6 2025 SCC OnLine 2276

72025 INSC 32

8 (2002) 10 SCC 283

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Sainaba v. State of Kerala⁹. According to him, the apprehensions of absconding or sale raised by the prosecution can be adequately met by strict conditions, including execution of bonds, production undertakings, prohibition on alienation and allowing inspection by the Investigating Officer. On these premises, the petitioner asserts that the impugned order is illegal, arbitrary and liable to be set aside.

Submissions:

11. The learned counsel for the petitioner, placing strong reliance on the decisions of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu¹⁰** and **Bishwajit Dey v. State of Assam¹¹**, submitted that Sections 36-C and 51 of the NDPS Act incorporate into NDPS proceedings the procedural provisions of the Cr.P.C./BNSS, including Sections 497 and 503, so long as there is no express inconsistency. He submitted that the NDPS Act does not prohibit interim release of vehicles seized in connection with NDPS offences.

⁹ 2022 SCC OnLine SC 1784

¹⁰ 2025 SCC OnLine 2276

¹¹ 2025 INSC 32



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12. The learned counsel further contended that Section 52-A of the NDPS Act and the 2022 Disposal Rules deal only with inventory, certification and administrative disposal of seized articles and conveyances through mechanisms such as the Drug Disposal Committee and that, as clarified in **Denash v. State of Tamil Nadu**¹², those Rules are subordinate legislation which cannot override the parent statute or extinguish the Court's jurisdiction to entertain applications for interim custody. He submitted that confiscation is a post-trial issue and that until such time, the owner's property rights remain intact and cannot be nullified by simply allowing the vehicles to deteriorate in police or court custody.

13. He also placed reliance on **Sunderbhai Ambalal Desai v. State of Gujarat**¹³ and **Sainaba v. State of Kerala**¹⁴ to contend that the Supreme Court has repeatedly stressed that vehicles should not be allowed to rot in police stations and that Magistrates and criminal Courts are expected to release such vehicles to claimants on superdari with appropriate conditions. Referring to **Bishwajit Dey v. State of**

¹² 2025 SCC OnLine 2276

¹³ (2002) 10 SCC 283

¹⁴ 2022 SCC OnLine SC 1784



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Assam¹⁵, he submitted that even in NDPS cases, depending on the factual scenario, interim release should ordinarily be considered, and that the fact that the owner is an accused does not, by itself, bar interim release, though it calls for greater caution. He submitted that the fears regarding misuse or absconding can be effectively addressed through heavy bonds, solvent sureties, conditions of non-alienation and a requirement to produce the vehicles as and when required.

14. Per contra, the learned Additional Public Prosecutor, adopting a restrictive approach which has been noticed and answered in **Denash v. State of Tamil Nadu**¹⁶, contended that both vehicles in question were directly used in the commission of the NDPS offence and that the petitioner, being Accused No.1, was allegedly found selling ganja by using these very vehicles. He submitted that the NDPS Act is a special and stringent statute enacted to curb the menace of drug trafficking and that Courts must adopt a strict view and refrain from releasing vehicles that have been used for drug-related activities.

15. He emphasised that there is a genuine apprehension that, if

152025 INSC 32

16 2025 SCC OnLine 2276

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the vehicles are returned, the petitioner may abscond to another State and/or sell the vehicles, thereby frustrating the possibility of their confiscation and hampering the conduct of the trial. He contended that the vehicles are liable to confiscation under Section 60(3) of the NDPS Act and therefore ought to remain in custody. On these premises, he submitted that the impugned order refusing interim custody is justified and does not warrant interference.

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

Point for Consideration:

17. In view of the above facts and rival submissions, the point that arises for consideration in this Criminal Revision Petition is whether, in the circumstances of the case, the learned Principal Special Judge for NDPS Act Cases, Madurai, was justified in refusing interim custody of the Maruti Swift Car bearing Registration No.TN-74-BB-8643 and the Jawa Two Wheeler bearing Registration No.TN-74-BD-3600 to the petitioner / Accused No.1, or whether, having regard to Sections 497 and 503 of the BNSS, Sections 52-A, 60(3) and 63 of the NDPS Act,



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the 2022 Disposal Rules and the law declared in **Denash v. State of Tamil Nadu**¹⁷ and **Bishwajit Dey v. State of Assam**¹⁸, this Court ought to direct release of the said vehicles on appropriate conditions.

Analysis:

18. At the threshold, it is necessary to reaffirm the legal position that Sections 497 and 503 of the BNSS, which correspond to Sections 451 and 457 of the Code of Criminal Procedure, vest criminal Courts with wide discretion to pass orders for the proper custody, preservation and delivery of property produced before them or reported to them as having been seized. These provisions enable the Court, inter alia, to direct that property be delivered to any person claiming to be entitled to possession, to impose bonds and conditions to secure production of such property during trial, and to act promptly where property is subject to speedy or natural decay. There is no textual exclusion in the NDPS Act which prevents the exercise of these powers in respect of vehicles seized in NDPS cases.

19. Sections 36-C and 51 of the NDPS Act expressly provide that

¹⁷ 2025 SCC OnLine 2276

¹⁸ 2025 INSC 32

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the provisions of the Code of Criminal Procedure shall apply to the proceedings before the Special Court and to warrants, arrests, searches and seizures under the NDPS Act, insofar as they are not inconsistent with the Act. The BNSS, being the successor procedural code, now occupies that field. The NDPS Act does not stipulate any special procedure that displaces or supplants the general interim custody powers of criminal Courts; rather, it supplements the general procedure with special rules concerning searches, seizures, presumptions and confiscation. The jurisdiction of the Court under Sections 497 and 503 BNSS is therefore preserved and available even in NDPS prosecutions.

20. Section 52-A of the NDPS Act, along with the 2022 Disposal Rules framed thereunder, prescribes a special mechanism for preparation of inventory, sampling, certification and disposal of seized narcotic drugs, psychotropic substances, controlled substances and conveyances through the Drug Disposal Committee or other prescribed modes. As explained by the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***¹⁹, these Rules are meant to facilitate administrative management and disposal of seized articles and do not create or confer jurisdiction to adjudicate upon questions of ownership or confiscation of vehicles. Such questions are governed by Sections 60 and 63 of the

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21. The Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**²⁰ strongly deprecated the practice of keeping seized vehicles in the precincts of police stations for long durations, pointing out that such vehicles become junk over time and that such custody serves no meaningful purpose for the criminal justice system. The Court held that Magistrates should normally pass orders for release of such vehicles to persons entitled to possession, subject to bonds and conditions, so as to prevent waste and decay. These principles were specifically applied in the NDPS context in **Sainaba v. State of Kerala**²¹, where the Supreme Court directed release of a vehicle seized in an NDPS case, recognising that the power under Section 451 Cr.P.C. (now Section 497 BNSS) is available in such matters as well.

22. In **Bishwajit Dey v. State of Assam**²², the Supreme Court analysed different scenarios of seizure of contraband from conveyances

²⁰ (2002) 10 SCC 283

²¹ 2022 SCC OnLine SC 1784

²² 2025 INSC 32



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and underscored that the powers of criminal Courts ought to be exercised in a realistic and fact-sensitive manner rather than through rigid formulae. While the Court indicated that heightened caution is required where the owner himself is an accused or where his agent is apprehended transporting contraband, it did not lay down any blanket rule prohibiting interim custody to such an owner. On the contrary, it emphasised that even in serious cases, the Court's discretion may be exercised to grant interim custody, subject to stringent conditions, wherever the balance of convenience so warrants.

23. The decision in ***Denash v. State of Tamil Nadu***²³ squarely answers the contention that the 2022 Disposal Rules have the effect of ousting the jurisdiction of criminal Courts to grant interim custody of vehicles in NDPS cases. The Supreme Court emphatically held that the 2022 Rules are subordinate legislation which cannot override the NDPS Act or repeal the powers of criminal Courts under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS). It was reiterated that confiscation remains a matter for judicial decision under Section 63 and that, pending such decision, owners cannot be left without remedy while their vehicles deteriorate.

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24. Coming to the present case, it is true that the petitioner is shown as Accused No.1 and that the vehicles in question are alleged to have been used in the commission of the NDPS offence. This circumstance undoubtedly calls for cautious exercise of judicial discretion. However, it does not, in law, create an absolute bar to interim custody. The Maruti Swift Car and the Jawa Motorcycle are motor vehicles whose value and utility are inherently linked to their use and maintenance. If they are left stationary in an open yard under police or court custody for prolonged periods, inevitable deterioration of their mechanical parts and reduction in market value will ensue.

25. The trial in Crime No.67 of 2025 has not yet commenced or concluded. The question of confiscation of the vehicles is a matter that will have to be decided by the trial Court at the appropriate stage under Section 63 of the NDPS Act, after recording evidence and affording an opportunity of hearing to the petitioner. Confiscation cannot be assumed at this stage nor can it be treated as an accomplished fact so as to justify indefinite detention and decay of the vehicles. The apprehension expressed by the prosecution that the petitioner may abscond with the vehicles or may sell them, thereby frustrating the prospects of confiscation, is essentially speculative.



27. In these circumstances, the refusal of interim custody by the Trial Court, based solely on the petitioner's status as an accused and speculative fears of absconding or alienation, without examining the prosecutory scheme and the binding precedents of the Supreme Court, cannot be sustained. This Court is therefore of the considered view that the impugned order dated 30.06.2025 calls for interference in exercise of its revisional jurisdiction.



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28. In the result, this Criminal Revision Petition is allowed. The order dated 30.06.2025 passed in CrI.M.P.No.1521 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

29. The respondent police / trial Court are directed to release the following vehicles to the petitioner on interim custody: (i) Maruti Swift Car bearing Registration No.TN-74-BB-8643; and (ii) Jawa Two Wheeler bearing Registration No.TN-74-BD-3600; subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.95,000/- (Rupees Ninety Five Thousand only)** as non-refundable deposit for the said vehicles 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.25,000/- (Rupees Twenty Five 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



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Certificates of the vehicles before the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, 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 vehicle;
- (e) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (f) the petitioner shall produce the vehicles before the learned Trial Court on every day;

30. It is made clear that this order pertains only to the question of interim custody of the vehicles and shall not be construed as expressing any opinion on the merits of the prosecution in Crime No.67 of 2025 or on the ultimate liability of the vehicles to be confiscated under the NDPS Act.



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

27.11.2025

NCC : Yes / No
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To

- 1.The Principal Special Judge,
Principal Special Court for Narcotic
Drugs and Psychotropic Substances Act Cases,
Madurai.
- 2.The Inspector of Police,
Kottar Police Station,
Kanyakumari 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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