



CRL RC(MD)No.920 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.920 of 2025

Shibin

... Petitioner

Vs.

State, Rep. by
The Inspector of Police,
PEW Nagercoil Police Station,
(Crime No.29/2025)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 483 r/w. 442 of BNSS, 2023, to call for the records pertaining to the order passed in CrI.M.P.No.1665 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai dated 11.07.2025 and set aside the same.

For Petitioner : Mr.K.Sasiprabha

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

ORDER

This Criminal Revision Petition is directed against the order dated 11.07.2025 passed in CrI.M.P.No.1665 of 2025 on the file of the



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Principal Special Court for Narcotic Drugs and Psychotropic Substances

Act Cases, Madurai, whereby the petition filed by the petitioner seeking interim custody of his Bajaj two wheeler bearing Registration No.TN-74-BB-5943, seized in connection with Crime No.29 of 2025 on the file of PEW Nagercoil Police Station, came to be dismissed.

2. The case of the petitioner, as projected before the trial Court and reiterated in this revision, is that:

He is the owner of a Bajaj two wheeler bearing Registration No.TN-74-BB-5943 which has been seized by the respondent police in connection with Crime No.29 of 2025 registered for offences under the NDPS Act. It is his case that the said vehicle is now kept in the custody of the respondent police and/or before the Special Court as case property.

3. The petitioner claims that he is the rightful owner of the vehicle and that, at the least, he is entitled to its custody on an interim basis pending completion of investigation and trial. He points out that the motorcycle is parked in an open yard, directly exposed to sun, rain and other natural elements and, therefore, is subject to natural decay and



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steep depreciation in value. He contends that, if the vehicle is kept unused in such conditions for long, it will become unfit for road use, causing serious financial loss and hardship to him.

4. The petitioner further states that he is ready and willing to produce the vehicle whenever required by the Court or the Investigating Officer, that he will abide by any stringent conditions that may be imposed, including execution of bonds, prohibition on alienation, and ensuring availability of the vehicle for confiscation if ultimately ordered and that, in these circumstances, he prayed that the vehicle be produced before the Court and returned to him on interim custody.

Case of the Prosecution:

5. The respondent police, in their objection, have stated that the petitioner is the accused in Crime No.29 of 2025. It is alleged that at the time of arrest, the petitioner/accused was engaged in selling 1.250 kilograms of ganja and that the said Bajaj two wheeler bearing Registration No.TN-74-BB-5943 was the conveyance used by him for transporting and selling the contraband.



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6. On that basis, the prosecution asserts that the vehicle is indisputably a conveyance used in the commission of an NDPS offence and is, therefore, liable to confiscation in terms of the NDPS Act. It is also stated that steps have already been taken towards confiscation of the vehicle. The prosecution contends that, if the vehicle is handed over to the petitioner at this stage, there is a genuine apprehension that he may abscond to another State along with the vehicle or otherwise frustrate confiscation and trial. On these grounds, the prosecution has strongly objected to returning the vehicle on interim custody and has prayed for dismissal of the application.

Gist of the Impugned Order:

7. By the impugned order dated 11.07.2025 in CrI.M.P.No.1665 of 2025, the learned Principal Special Judge for NDPS Act Cases, Madurai, dismissed the petition filed by the petitioner. The learned Special Judge appears to have mainly proceeded on the footing that the petitioner is the accused in Crime No.29 of 2025, that the vehicle in question was allegedly used for selling ganja, that steps for confiscation have been initiated and that the release of the vehicle at this stage might enable the petitioner to abscond or to defeat the confiscation proceedings.



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8. The order does not advert to the ambit and scope of Sections 497 and 503 of the BNSS, nor does it discuss the scheme and safeguards under Sections 60(3) and 63 of the NDPS Act. There is no reference to the effect of the judgments in **Denash v. State of Tamil Nadu**¹ or **Bishwajit Dey v. State of Assam**² or to the Hon'ble Supreme Court's repeated insistence in **Sunderbhai Ambalal Desai v. State of Gujarat**³ and **Sainaba v. State of Kerala**⁴ that vehicles should not be allowed to rot in police or Court custody. The impugned order thus rests primarily on the petitioner's accused status and on apprehensions of possible misuse or non-production.

Grounds of Revision:

9. The petitioner has assailed the impugned order on several grounds. It is contended that the trial Court erred in proceeding on the assumption that the NDPS Act and contemplated confiscation oust its jurisdiction to grant interim custody under Sections 497 and 503 BNSS. It is further contended that the Court failed to appreciate that Sections

1 2025 SCC OnLine 2276

2 2025 INSC 32

3 (2002) 10 SCC 283

4 2022 SCC OnLine SC 1784



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36-C and 51 of the NDPS Act make the procedural provisions of the Code of Criminal Procedure, now BNSS, applicable to NDPS proceedings, including Sections 497 and 503, save where inconsistent with the NDPS Act.

10. The petitioner submits that Section 52-A of the NDPS Act and the 2022 Rules deal only with inventory, sampling, certification and disposal procedure, and not with the question whether the Court can, in the interim, entrust custody of the vehicle to the owner subject to conditions.

11. It is further contended that the impugned order is contrary to the ratio of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁵, which holds that the 2022 Rules cannot be interpreted as divesting the Special Court of its jurisdiction to order interim release of vehicles under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS). The petitioner also points out that the impugned order is inconsistent with the directions issued in **Bishwajit Dey v. State of**

⁵ 2025 SCC OnLine 2276



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Assam⁶, Sainaba v. State of Kerala⁷, Sunderbhai Ambalal Desai v.

State of Gujarat⁸ and Tarun Kumar Majhi v. State of West Bengal⁹,

where the Hon'ble Supreme Court has repeatedly directed that seized vehicles should not be left to decay in police or Court custody. It is also argued that the objections regarding likely abscondence or non-production can be addressed by imposing strict conditions and that they are not a lawful basis to deny interim custody altogether.

Submissions:

12. The learned counsel for the petitioner submitted that Sections 497 and 503 of the BNSS, corresponding to Sections 451 and 457 Cr.P.C., confer ample powers on criminal Courts to pass appropriate orders regarding custody, preservation and delivery of property pending trial. It is his submission that Sections 36-C and 51 of the NDPS Act expressly stipulate that the provisions of the Code of Criminal Procedure, and now BNSS, apply to proceedings under the NDPS Act,

6 2025 INSC 32

7 2022 SCC OnLine SC 1784

8 (2002) 10 SCC 283

9 2025 SCC OnLine SC 2362



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unless there is inconsistency, and that there is nothing in the NDPS Act which prohibits the grant of interim custody of conveyances.

13. The learned counsel further argued that Section 52-A of the NDPS Act and the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 govern the administrative aspects of disposal of contraband and conveyances through Drug Disposal Committees but that they do not extinguish or curtail the judicial power of the Special Court to grant interim custody. He placed reliance on the decision in **Denash v. State of Tamil Nadu**¹⁰, wherein the Hon'ble Supreme Court has categorically held that the 2022 Rules cannot be interpreted as divesting Special Courts of their power to entertain and allow applications for interim custody of vehicles under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS).

14. The learned counsel for the petitioner also submitted that Section 60(3) read with Section 63 of the NDPS Act, makes it clear that confiscation is a judicial determination which must be made after giving the owner an opportunity to show that the vehicle was used without his knowledge or connivance and that reasonable precautions were taken

¹⁰ 2025 SCC OnLine 2276



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and that such confiscation is not an automatic consequence of seizure.

He relied on **Sunderbhai Ambalal Desai v. State of Gujarat**¹¹ and **Sainaba v. State of Kerala**¹² to contend that the vehicle in question is a depreciating mechanical asset and that leaving it in open custody will only result in wasteful destruction of value.

15. He contended that the apprehension of abscondence or non-production can be addressed by imposing heavy bonds, non-alienation conditions and a direction to produce the vehicle on demand and therefore, the impugned order deserves to be set aside and the vehicle released to the petitioner with stringent safeguards.

16. Per contra, the learned Additional Public Prosecutor, in line with the stance often taken in NDPS proceedings, contended that the petitioner is the accused in Crime No.29 of 2025 and that he was allegedly selling 1.250 kilograms of ganja by using the Bajaj motorcycle in question. He argued that the vehicle is therefore clearly a conveyance used in the commission of an NDPS offence and is liable to confiscation

¹¹ (2002) 10 SCC 283

¹² 2022 SCC OnLine SC 1784



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under Section 60(3) of the NDPS Act.

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17. The learned Additional Public Prosecutor submitted that steps have already been initiated for confiscation and that it would be inappropriate to return the vehicle to the accused at this stage. He contended that, if the vehicle is released, there is every possibility that the petitioner may abscond to another State or sell or otherwise dispose of the vehicle, thereby frustrating any eventual order of confiscation and obstructing the progress of the trial. Considering the serious nature of NDPS offences and the legislative intent to curb drug trafficking, he urged that the safer course is to retain custody of the vehicle and therefore, the impugned order calls for no interference.

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

Point for Consideration:

19. In the above factual background and having regard to the rival submissions, the point that arises for consideration is whether, in



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the facts and circumstances of the present case, the refusal by the Principal Special Court for NDPS Act Cases, Madurai, to grant interim custody of the Bajaj motorcycle bearing Registration No.TN-74-BB-5943 to the petitioner/accused is legally sustainable, or whether, in the light of Sections 497 and 503 of the BNSS, Sections 52-A, 60(3) and 63 of the NDPS Act, the 2022 Rules and the law laid down by the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***¹³, ***Bishwajit Dey v. State of Assam***¹⁴, ***Sainaba v. State of Kerala***¹⁵, ***Sunderbhai Ambalal Desai v. State of Gujarat***¹⁶ and ***Tarun Kumar Majhi v. State of West Bengal***¹⁷, the petitioner is entitled to interim release of the vehicle on suitable conditions.

Analysis:

20. At the outset, it is necessary to reiterate that Sections 497 and 503 of the BNSS, which are successors to Sections 451 and 457 of

¹³ 2025 SCC OnLine 2276

¹⁴ 2025 INSC 32

¹⁵ 2022 SCC OnLine SC 1784

¹⁶ (2002) 10 SCC 283

¹⁷ 2025 SCC OnLine SC 2362



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the Code of Criminal Procedure, confer wide powers on criminal Courts to pass such orders as they think fit for the proper custody of property pending conclusion of inquiry or trial, to deliver property to persons claiming to be entitled to possession and to act swiftly in respect of property subject to speedy or natural decay. These provisions are of general application and extend to all types of criminal proceedings, including prosecutions under the NDPS Act, unless specifically excluded.

21. Sections 36-C and 51 of the NDPS Act expressly provide that the provisions of the Code of Criminal Procedure shall apply to proceedings before the Special Court and, in so far as they are not inconsistent with the NDPS Act, to warrants issued and arrests, searches and seizures made under the Act. The procedural framework of the BNSS therefore stands attracted to NDPS proceedings except where there is a direct inconsistency with the substantive or special procedural provisions of the NDPS Act. There is no provision in the NDPS Act that prohibits the Court from exercising its powers of interim custody in relation to vehicles seized in connection with NDPS offences.



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22. Section 52-A of the NDPS Act, together with the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, provides a special mechanism for inventory, sampling, certification and disposal of seized narcotic drugs, psychotropic substances and conveyances. The Rules prescribe, inter alia, the procedure for referring seized articles and conveyances to the Drug Disposal Committee and for disposal by way of destruction, auction or other authorised modes. However, as clarified by the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**¹⁸, these Rules are subordinate legislation meant to operationalise the disposal regime and they cannot override or curtail the jurisdiction of criminal Courts under the parent statute or the general procedural law.

23. The decisions of the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁹ and **Sainaba v. State of Kerala**²⁰ have repeatedly emphasised that it is of no use to keep vehicles and other valuable properties in police custody for long periods and that the Courts should normally release such properties on

¹⁸ 2025 SCC OnLine 2276

¹⁹ (2002) 10 SCC 283

²⁰ 2022 SCC OnLine SC 1784



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superdari to persons claiming to be entitled to possession, subject to appropriate bonds and conditions, particularly when the properties are subject to natural decay or depreciation.

24. In ***Bishwajit Dey v. State of Assam***²¹, the Hon'ble Supreme Court analysed various scenarios of seizure of contraband from conveyances and underscored that criminal law has to be applied to actual facts and not in a vacuum. While the Court indicated that where the owner himself or his agent is found in possession of contraband, a higher degree of caution is required, it did not lay down any rule that interim custody must necessarily be refused in all such cases. Instead, the Court left the door open for trial Courts to exercise their discretion based on the facts of each case, including by imposing stringent conditions to safeguard the interests of the prosecution.

25. In ***Denash v. State of Tamil Nadu***²², the Hon'ble Supreme Court had occasion to consider the effect of the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 and the contention that these Rules had the effect of removing the jurisdiction of criminal Courts to

21 2025 INSC 32

22 2025 SCC OnLine 2276

14/21



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grant interim custody of seized vehicles in NDPS cases. the Hon'ble Supreme Court categorically held that the 2022 Rules, being subordinate legislation, cannot override the parent NDPS statute or the procedural powers of criminal Courts under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS). The Court clarified that disposal by the Drug Disposal Committee is an administrative mechanism and does not supplant the judicial process of confiscation under Sections 60 and 63 of the NDPS Act. the Hon'ble Supreme Court thus affirmed that criminal Courts remain competent to entertain and allow applications for interim custody of vehicles seized in NDPS cases, subject to suitable conditions.

26. Applying these principles to the facts of the present case, it is to be noted that the petitioner is indeed the accused in Crime No.29 of 2025 and that the vehicle in question is alleged to have been used in the commission of the NDPS offence. This circumstance warrants a cautious approach but does not, by itself, establish that the vehicle must be kept indefinitely in idle custody. The Bajaj motorcycle is a movable, mechanical asset whose value and utility depend on its proper maintenance and use. If it is allowed to remain unused in an open yard for a prolonged period, it will inevitably deteriorate physically and lose



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substantial market value.

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27. The issue of whether the vehicle is ultimately liable to confiscation under Section 60(3) read with Section 63 of the NDPS Act will fall for determination before the trial Court at the appropriate stage, after evidence is let in and after the petitioner is given an opportunity of hearing. Until such time, the property rights of the petitioner in the vehicle cannot be treated as extinguished. The apprehension that the petitioner may abscond with the vehicle or sell it can, in the considered view of this Court, be adequately addressed by the imposition of stringent conditions, including execution of a substantial bond, furnishing of solvent sureties, prohibition of alienation and a direction to produce the vehicle whenever required.

28. The learned Trial Court, in the impugned order, has not adverted to this statutory and judicial framework and has rejected the application solely on the basis of the petitioner's accused status, the allegation of use of the vehicle in the offence and speculative apprehensions of abscondence and sale. Such an approach is contrary to the law laid down by the Hon'ble Supreme Court and fails to balance



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the competing interests of preserving the value of the property and safeguarding the potential claim of the State to confiscation.

29. In these circumstances, this Court is of the view that the impugned order dated 11.07.2025 is unsustainable and requires interference in exercise of revisional jurisdiction. The proper course is to grant interim custody of the Bajaj motorcycle to the petitioner, subject to strict conditions that secure its production and protect the interests of the prosecution.

30. In the result, the Criminal Revision Petition is allowed. The order dated 11.07.2025 passed in CrI.M.P.No.1665 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

31. The respondent police and the learned Trial Court are directed to release the Bajaj two wheeler bearing Registration No.TN-74-BB-5943 to the petitioner on interim custody, subject to the following conditions.

(a) the petitioner is directed to deposit a sum of **Rs.50,000/-**



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(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 Cases, 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 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 vehicle before the learned Trial



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Court on every day.

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32. It is made clear that, at the appropriate stage of the proceedings, the trial Court shall decide the issue of confiscation or otherwise of the vehicle under Section 63 of the NDPS Act strictly on the basis of the evidence and submissions placed before it, uninfluenced by the grant of interim custody under this order, save to the extent of enforcing the bond or directing payment of the assessed value if an order of confiscation is ultimately passed.

33. It is further made clear that this order is confined to the question of interim custody of the vehicle and shall not be construed as an expression of opinion on the merits of the prosecution in Crime No. 29 of 2025 or on the ultimate culpability of the petitioner or the liability of the vehicle to be confiscated.

34. With the above directions, this Criminal Revision Petition stands allowed.

27.11.2025

NCC : Yes / No
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To

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



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L.VICTORIA GOWRI, J.,

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