



CRL RC(MD)No.1089 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.1089 of 2025

Marnadu

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by The Inspector of Police,
PEW Madurai Police Station,
Madurai City.
(Crime No.893/2024)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, in CrI.M.P.No.2776 of 2025 dated 04.08.2025 and set aside the same.

For Petitioner : Mr.P.Balamurugan

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



CRL RC(MD)No.1089 of 2025

ORDER

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This Criminal Revision Petition is directed against the order dated 04.08.2025 passed in CrI.M.P.No.2776 of 2025 by the learned Principal Special Judge for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, whereby the petition filed by the present petitioner, seeking interim custody of his two wheeler, namely Splendor Plus bearing Registration No.TN-58-BK-1072, seized in connection with Crime No.893 of 2024 on the file of PEW Madurai Police Station, came to be dismissed.

Case of the Prosecution:

2. The prosecution case, as could be gathered from the materials relating to Crime No.893 of 2024 on the file of PEW Madurai Police Station, is that a case has been registered against the petitioner and others for offences under Sections 8(c) read with 20(b)(ii)(B), 25 and 29(1) of the NDPS Act. The petitioner has been arrayed as Accused No.3. It is the specific allegation of the prosecution that the petitioner, along with the co-accused, was engaged in selling ganja and that in the course of such illegal activity, the two wheeler Splendor Plus bearing Registration No.TN-58-BK-1072 was used as a conveyance to transport



CRL RC(MD)No.1089 of 2025

and effect sale of the contraband. It is stated that the said vehicle was seized by the respondent police during the investigation.

3. The respondent further contends that the seized vehicle was, in due course, forwarded to the Drug Disposal Committee under Form-4 and Form-5 as contemplated by the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 and is now under the process / consideration of disposal in accordance with those Rules. According to the prosecution, if the Splendor Plus motorcycle is returned to the petitioner on interim custody, there is a real and imminent possibility that he may abscond to another State along with the vehicle or sell the vehicle, thereby frustrating any future order of confiscation and hampering the effective conduct of the prosecution. On this basis, the prosecution has strongly objected to restoration of the vehicle to the petitioner.

Case of the petitioner:

4. The petitioner, on the other hand, asserts that he is the absolute and registered owner of the Splendor Plus motorcycle bearing Registration No.TN-58-BK-1072 and that the said vehicle is a crucial



CRL RC(MD)No.1089 of 2025

movable asset for his daily mobility and livelihood. He contends that, although the vehicle has been seized in connection with the above crime, he is nonetheless entitled to seek its interim custody in exercise of the Court's powers under Sections 497 and 503 of the BNSS, 2023. It is the petitioner's grievance that ever since its seizure, the motorcycle has been lying idle in the police station or in an open yard, exposed to sun, rain, and other natural elements. He asserts that by reason of such prolonged idle exposure, the vehicle is suffering rapid natural deterioration, both mechanically and in terms of market value, and that if it is not released to him for proper use and maintenance, it will soon become unfit for road use, causing him irreparable financial loss.

5. The petitioner specifically contends that the mere fact that the vehicle has been forwarded to the Drug Disposal Committee in terms of the 2022 Rules does not extinguish or curtail the jurisdiction of the criminal Court to grant interim custody and that such forwarding cannot be treated as an irreversible step divesting the Court of control over the property. He submits that confiscation under Section 60(3) of the NDPS Act is not an automatic or administrative outcome of seizure or of reference to the Drug Disposal Committee but that it can only follow a judicial determination under Section 63 of the NDPS Act after



CRL RC(MD)No.1089 of 2025

giving the owner an opportunity of hearing.

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6. The petitioner has also undertaken before the Court that he is ready and willing to produce the vehicle as and when required by the learned Trial Court or the Investigating Officer, that he will not alienate, encumber or misuse the vehicle and that he will scrupulously abide by any stringent conditions, including execution of bonds and furnishing of solvent sureties, that this Court may impose. On these premises, he has prayed for setting aside the impugned order and for grant of interim custody of the Splendor Plus motorcycle.

Gist of the Impugned Order:

7. The learned Principal Special Judge for NDPS Act Cases, Madurai, by the impugned order dated 04.08.2025 in CrI.M.P.No.2776 of 2025, dismissed the petitioner's application for interim custody. From a reading of the impugned order, it appears that the learned Special Judge mainly rested the rejection on the following factors, namely, that the petitioner is an accused in the NDPS case, that the vehicle in question was used in selling ganja, that the vehicle has already been forwarded to the Drug Disposal Committee under the 2022 Rules and



CRL RC(MD)No.1089 of 2025

that, therefore, it would not be appropriate to return the vehicle at this stage.

8. The impugned order does not reflect any independent examination of the scope of Sections 497 and 503 of the BNSS, 2023, or of the interplay between those provisions and Sections 36-C, 51, 52-A, 60(3) and 63 of the NDPS Act. There is no discussion of the judicial nature of confiscation under Section 63 of the NDPS Act, nor is there any reference to the effect of the judgment of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**¹ or to the principles enunciated in **Sunderbhai Ambalal Desai v. State of Gujarat**, **Sainaba v. State of Kerala**² and **Bishwajit Dey v. State of Assam**³ that vehicles should not be allowed to rot in police or Court custody.

Grounds of Revision:

9. The petitioner, in this revision, contends that the learned Special Judge has proceeded on an erroneous presumption that mere

¹ 2025 SCC OnLine 2276

² 2022 SCC OnLine SC 1784

³ 2025 INSC 32



CRL RC(MD)No.1089 of 2025

involvement of the vehicle in an NDPS case and the forwarding of the vehicle to the Drug Disposal Committee under the 2022 Rules are sufficient to bar interim custody. It is contended that the learned Trial Court has overlooked the fact that Sections 36-C and 51 of the NDPS Act expressly make the provisions of the Code of Criminal Procedure, 1973, now the BNSS, applicable to NDPS trials except where there is an inconsistency and that Sections 497 and 503 of the BNSS, 2023, form part of that applicable framework.

10. It is further contended that the Court incorrectly treated reference to the Drug Disposal Committee as eliminating its jurisdiction to entertain or allow an application for interim release of the vehicle. The petitioner points out that this line of reasoning stands directly negated by the judgment of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁴, which clarifies that the 2022 Rules are subordinate legislation and cannot override the parent statute or the general procedural powers of the criminal Court under Sections 451 and 457 Cr.P.C., 1973 (now Sections 497 and 503 of the BNSS, 2023).

11. The petitioner submits that the impugned order also ignores the post-trial, judicial nature of confiscation as envisaged under Section

⁴ 2025 SCC OnLine 2276



CRL RC(MD)No.1089 of 2025

60(3) read with Section 63 of the NDPS Act and wrongly assumes confiscation to be an automatic or pre-determined consequence. He further contends that the learned Special Judge has failed to apply the principle, repeatedly emphasised by the Hon'ble Supreme Court, that valuable vehicles should not be allowed to deteriorate in custody but should be released on *superdari*, subject to suitable safeguards.

12. The petitioner also contends that the prosecution's apprehensions of absconding or misuse can be effectively mitigated by imposing stringent conditions such as heavy bonds, non-alienation directions and production on demand and that such apprehensions, by themselves, cannot form a legally tenable basis for outright refusal of interim custody. On these grounds, the impugned order is challenged as contrary to law, arbitrary and liable to be set aside.

Submissions:

13. The learned counsel for the petitioner, drawing support from the pattern of submissions recorded and answered by the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***⁵ and ***Bishwajit***

⁵ 2025 SCC OnLine 2276



CRL RC(MD)No.1089 of 2025

Dey v. State of Assam⁶, submitted that **Denash v. State of Tamil Nadu**⁷ categorically holds that the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 cannot be construed so as to extinguish or override the power of the criminal Court under Sections 451 and 457 of the Code of Criminal Procedure, 1973 (now Sections 497 and 503 of the BNSS, 2023) to pass appropriate orders for interim custody of seized vehicles.

14. He submitted that the Courts retain full jurisdiction to grant interim custody in NDPS matters, as long as the exercise of that jurisdiction is not inconsistent with the specific provisions of the NDPS Act and that there is nothing in the Act which expressly or impliedly bars such interim release. He emphasised that confiscation under Section 63 of the NDPS Act is a judicial act which entails a full-fledged enquiry after trial, and that anticipated confiscation cannot be used as a ground to reject interim custody at the threshold.

15. The learned counsel further argued that the Splendor Plus motorcycle is a depreciating mechanical asset and that its preservation

6 2025 INSC 32

7 Supra 5

9/22



CRL RC(MD)No.1089 of 2025

in true sense requires that it be put to limited lawful use and maintained properly rather than being allowed to rust in an open yard.

He submitted that the evidentiary needs of the prosecution can be fully addressed by preparing a proper inventory, taking photographs and documenting the chassis number, engine number and other particulars under Section 52-A of the NDPS Act and that physical retention of the vehicle in custody is not indispensable.

16. The learned counsel for the petitioner further contended that the petitioner is willing to execute a substantial bond, furnish two solvent sureties, undertake not to alienate or encumber the vehicle and to produce it whenever required by the learned Trial Court or the Investigating Officer. He therefore prayed that the impugned order be set aside and that the vehicle be released to the petitioner on interim custody with conditions.

17. Per contra, the learned Additional Public Prosecutor submitted that the petitioner is an accused in Crime No.893 of 2024 and that the vehicle in question has been directly used in selling ganja and thus forms part of the instrumentalities of the offence. He argued



CRL RC(MD)No.1089 of 2025

that since the vehicle has already been forwarded to the Drug Disposal Committee in accordance with the 2022 Rules, returning it now would interfere with and disrupt the ongoing process of disposal and possible confiscation.

18. The learned Additional Public Prosecutor further contended that there is every likelihood that, if the motorcycle is released, the petitioner may abscond to another State along with the vehicle or dispose of it, thereby rendering nugatory any future order of confiscation and frustrating the object of the NDPS Act, which is a special and stringent legislation designed to curb the menace of narcotic drugs. He therefore maintained that the learned Trial Court rightly refused interim custody and that the impugned order does not call for interference.

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

Point for Consideration:

20. In the light of the rival contentions and the statutory and judicial background referred to above, the point that arises for



CRL RC(MD)No.1089 of 2025

consideration is whether the Special Court was justified in refusing interim custody of the Splendor Plus motorcycle bearing Registration No.TN-58-BK-1072 to the petitioner solely on the ground that the vehicle was seized in an NDPS case and has been referred to the Drug Disposal Committee, or whether, having regard to the scheme of the BNSS and the NDPS Act and the law declared by the Hon'ble Supreme Court, the petitioner is entitled to interim custody subject to appropriate safeguards.

Analysis:

21. It is by now well-settled that Sections 497 and 503 of the BNSS, 2023, which are analogous to Sections 451 and 457 of the erstwhile Code of Criminal Procedure, 1973, confer a wide discretion upon criminal Courts to order proper custody of property pending enquiry or trial, to deliver such property to persons claiming to be entitled to possession and to take appropriate steps to prevent natural decay or deterioration. These provisions are general in nature and apply to all criminal cases, including NDPS prosecutions, unless there is an express or implied exclusion.



CRL RC(MD)No.1089 of 2025

22. Sections 36-C and 51 of the NDPS Act expressly stipulate that the provisions of the Code of Criminal Procedure, 1973, shall apply to proceedings under the NDPS Act, in so far as they are not inconsistent with the Act. There is no provision in the NDPS Act that treats seized vehicles differently in such manner as to forbid their interim release by the Court. Therefore, the jurisdiction of the Court under Sections 497 and 503 of the BNSS, 2023, to consider and grant interim custody of a vehicle seized in an NDPS case remains intact.

23. Section 52-A of the NDPS Act, along with the 2022 Rules, provides a special mechanism for seizure, storage, sampling and disposal of narcotic drugs, psychotropic substances and conveyances. The Rules lay down the procedure by which case properties, including vehicles, may be referred to the Drug Disposal Committee and, upon satisfaction of the requisite conditions, disposed of by destruction or sale. However, as clarified in ***Denash v. State of Tamil Nadu***⁸, these Rules are merely a piece of subordinate legislation intended to facilitate administrative disposal and cannot override the parent statute or negate the Court's powers under the general procedural law.

⁸ 2025 SCC OnLine 2276



CRL RC(MD)No.1089 of 2025

24. Section 63 of the NDPS Act mandates that it is for the Court to decide, at the time of passing judgment or thereafter, whether the seized article or conveyance is liable to confiscation and that no such order can be made without giving a person claiming any right to such property an opportunity of being heard. It follows that confiscation is neither automatic nor a mere administrative consequence of seizure or reference to the Drug Disposal Committee.

25. The Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat** has categorically held that keeping vehicles and other valuable properties in police custody for long periods serves no useful purpose and that the Courts should normally release such properties on *superdari* to the persons claiming to be entitled to possession, subject to appropriate safeguards, especially where the property is prone to speedy or natural decay. In **Sainaba v. State of Kerala**⁹, this principle has been specifically applied to vehicles seized in connection with NDPS cases.

26. In **Bishwajit Dey v. State of Assam**¹⁰, the Hon'ble Supreme Court, while dealing with vehicles intercepted with contraband,

⁹ 2022 SCC OnLine SC 1784



CRL RC(MD)No.1089 of 2025

reiterated that criminal law has to be applied on concrete facts and that the learned Trial Courts are required to adopt a realistic, fact-sensitive approach and not a rigid or mechanical one. Although the Court classified different possible scenarios of seizure from conveyances and cautioned that a greater degree of circumspection may be required where the owner himself is an accused, it did not lay down any absolute bar on interim release of vehicles in such cases.

27. The decision in ***Denash v. State of Tamil Nadu***¹¹ is particularly apposite. In that case, the Hon'ble Supreme Court was called upon to consider whether the 2022 Rules have the effect of withdrawing the jurisdiction of criminal Courts under Sections 451 and 457 Cr.P.C., 1973, to grant interim custody of vehicles seized in NDPS cases. The Court unequivocally held that the 2022 Rules are subordinate legislation and cannot override the parent Act or divest the Courts of their jurisdiction under the Code. It was further held that reference to the Drug Disposal Committee does not disable the Court from considering an application for interim custody of a vehicle and that any interpretation to the contrary would lead to anomalous and unjust

¹⁰ 2025 INSC 32

¹¹ 2025 SCC OnLine 2276



CRL RC(MD)No.1089 of 2025

consequences, and would be contrary to natural justice.

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28. In the light of the above principles, it is clear that the learned Special Judge was not right in proceeding as though the forwarding of the vehicle to the Drug Disposal Committee under the 2022 Rules necessarily precluded the grant of interim custody to the petitioner. The reference to the Drug Disposal Committee does not put the vehicle beyond the supervisory reach of the Court, nor does it render the Court *functus officio qua* interim custody.

29. It is true that in the present case, unlike some scenarios discussed in ***Bishwajit Dey v. State of Assam***¹², the petitioner is an accused and the vehicle is alleged to have been directly used in selling ganja. This factor undoubtedly demands greater caution in granting interim custody but cannot, by itself, justify a blanket refusal. The correct approach, in such circumstances, is to protect the interest of the prosecution by imposing strict conditions that ensure production of the vehicle and preserve the possibility of confiscation, while at the same time preventing unnecessary destruction of the vehicle's value.

¹² 2025 INSC 32



CRL RC(MD)No.1089 of 2025

30. The Splendor Plus motorcycle is a relatively modest but nonetheless significant movable asset for the petitioner. If it is left unrepaired and unused in the open, it will suffer mechanical damage and loss of economic value. The evidentiary value of the vehicle can be safeguarded by proper documentation, inventory, photographs and recording of its identifying particulars. On the other hand, the interests of the prosecution and the possibility of future confiscation can be adequately secured by requiring the petitioner to execute a bond equivalent to the current market value of the vehicle with solvent sureties, by restraining him from alienating or encumbering the vehicle and by insisting on production of the vehicle whenever directed.

31. The impugned order, however, does not exhibit any consideration of these balancing factors and proceeds mainly on speculative apprehensions of absconding and possible sale, coupled with the fact of reference to the Drug Disposal Committee. Such an approach is contrary to the law laid down by the Hon'ble Supreme Court in the decisions referred to above and amounts to a failure to exercise jurisdiction vested in the Court under Sections 497 and 503 of the BNSS, 2023.



CRL RC(MD)No.1089 of 2025

32. This Court is therefore of the considered view that the impugned order dated 04.08.2025 passed in CrI.M.P.No.2776 of 2025 cannot be sustained and that the petitioner is entitled to interim custody of the Splendor Plus motorcycle bearing Registration No.TN-58-BK-1072, subject to the imposition of appropriate and stringent conditions to safeguard the interests of justice.

33. In the result, this Criminal Revision Petition stands allowed. The order dated 04.08.2025 made in CrI.M.P.No.2776 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

34. The respondent police and the learned Trial Court are directed to release the Splendor Plus motorcycle bearing Registration No.TN-58-BK-1072 to the petitioner on interim custody, subject to the following conditions, which the petitioner shall strictly comply with.

- (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



CRL RC(MD)No.1089 of 2025

Bank, Madurai Bench of Madras High Court);

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- (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 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 Court on every day;



CRL RC(MD)No.1089 of 2025

35. It is made clear that the question of ultimate confiscation or otherwise of the said Splendor Plus motorcycle shall be decided by the trial Court at the appropriate stage strictly in accordance with Section 63 of the NDPS Act, on the basis of the evidence adduced and submissions made by the parties, uninfluenced by the fact that interim custody has been granted pursuant to this order, save to the limited extent of enforcing the bond or directing payment of the assessed value if an order of confiscation is ultimately passed.

36. It is further clarified that the observations made in this order are confined to the limited issue of interim custody of the vehicle and shall not be construed as an expression of opinion, one way or the other, on the merits of the prosecution in Crime No.893 of 2024 or on the culpability of the petitioner.

37. With the above directions and clarifications, this Criminal Revision Petition is allowed.

27.11.2025

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20/22



CRL RC(MD)No.1089 of 2025

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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,
PEW Madurai Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CRL RC(MD)No.1089 of 2025

L.VICTORIA GOWRI, J.,

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CRL RC(MD)No.1089 of 2025

27.11.2025