



CRL RC(MD)No.1093 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

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1.A.Jeyapandi

2.J.Megasri

3.J.Jagapriyan

... Petitioners

Vs.

The State of Tamilnadu, Rep. by
The Inspector of Police,
Checkanurani Police Station,
Madurai District.
(Crime No.438/2024)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to set aside the order dated 20.06.2025 in CrI.M.P.No.1358 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai and direct the respondent police to release the vehicle bearing Regn No.TN-14-U-1924 (Maruti Suzuki Dzire) to the interim custody of the petitioner.

For Petitioner : Mr.S.Sathish

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



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ORDER

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Preface:

This Criminal Revision Petition is directed against the order dated 20.06.2025 passed in Crl.M.P.No.1358 of 2025 by the learned Principal Special Judge for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, rejecting the petitioner's request for interim custody of a Maruti Suzuki Dzire car bearing Registration No. TN-14-U-1924, seized in connection with Crime No.438 of 2024 on the file of Checkanurani Police Station 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 could be culled out from the materials placed and the objection, can be summarised as follows:

The respondent / Checkanurani Police registered Crime No.438 of 2024 for offences under the NDPS Act, including Section 8(c) r/w 20(b) (ii)(B) and 25, relating to the sale / transport of ganja. On 13.12.2024 at about 7.40 a.m., while police personnel from Checkanurani Police Station were patrolling near Kannapuram Junction, they intercepted a



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Maruti Suzuki Dzire car bearing Registration No. TN-14-U-1924. The 1st petitioner and one Madhanagopalakrishnan were found in the vehicle. Based on the ensuing enquiry and seizure, the police allege that the vehicle had been used for the illegal transportation / selling of ganja. The car was seized as case property / conveyance used in the commission of NDPS offences and has since been kept in police custody.

3. In the written objection filed before the Special Court, the prosecution asserts that: Accused No.1 (the petitioner) was selling ganja using the said Maruti Suzuki Dzire car; The vehicle has been produced before the Drug Disposal Committee; and if the vehicle is now handed over to the petitioner on interim custody, he will not produce it in future, thereby frustrating the prosecution and any confiscation proceedings. On these premises, the prosecution strongly opposed the request for interim custody.

Case of the Petitioner:

4. The petitioner's case, as projected in Crl.M.P.No.1358 of 2025 and reiterated herein, is as follows:



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The vehicle Maruti Suzuki Dzire bearing Registration No. TN-14-U-1924 was originally registered in the name of the 1st petitioner's late wife, Nithiya, who passed away intestate. The 1st petitioner states that he and his minor children are the legal heirs of the deceased Nithiya and, in that capacity, are the rightful owners / claimants of the car. The vehicle is used for personal and domestic purposes. On 13.12.2024 at about 7.40 a.m., while police personnel were patrolling at Kannapuram Junction, the car was intercepted and the petitioner, along with one Madhanagopalakrishnan, was apprehended. The police thereafter seized the car, alleging that it was used for illegal transportation of contraband.

5. The petitioner contends that he was neither in control of the vehicle for any unlawful purpose nor engaged in any illegal activity at the time of the alleged offence; he disputes that the vehicle was knowingly used for NDPS offences. He further submits that the vehicle is now kept in the police station in the open, exposed to sun, rain, and other natural forces. Continuous exposure has caused, and will continue to cause, natural decay, degrading the mechanical condition and market value of the vehicle. If the car is allowed to remain indefinitely in police custody, it will become unfit for reliable road use,



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and he and his minor children will suffer severe hardship.

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6. The 1st petitioner avers that he is ready to produce the vehicle whenever required, to comply with any conditions, and that there is no justification in law for refusing interim custody to the legal heirs and claimants. On these grounds, he prayed for interim return of the vehicle.

Gist of the Trial Court order:

7. By order dated 20.06.2025 in CrI.M.P.No.1358 of 2025, the learned Principal Special Judge for NDPS Act Cases, Madurai, dismissed the petitioner's application. The reasoning, in substance, is as follows:

The vehicle bearing Reg. No. TN-14-U-1924 Maruti Suzuki Dzire stands seized in connection with Crime No.438 of 2024 relating to NDPS offences. The prosecution has objected to interim release, stating that Accused No.1 was selling ganja using the said vehicle. It has also been stated that the vehicle has been produced before the Drug Disposal Committee. The Court accepted the prosecution's apprehension that, if the vehicle is handed over to the petitioner, he may not produce it in



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future, particularly when it has already been taken up for disposal proceedings. On these grounds, and having regard to the NDPS nature of the offence, the learned Special Judge held that the petitioner is not entitled to interim custody and dismissed the petition.

Grounds of Revision:

8. The petitioner assails the impugned order on, *inter alia*, the following grounds:

The learned Special Judge failed to appreciate that the petitioners, as surviving spouse and children and the legal heirs of the registered owner, is a *prima facie* rightful claimants to the car, and that there is no automatic bar against granting interim custody to such an owner, even where NDPS offences are alleged. The Court below erroneously treated the production of the vehicle before the Drug Disposal Committee as if it ousted or curtailed the Court's jurisdiction under Sections 451 / 457 Cr.P.C., 1973 (now Sections 497 / 503 BNSS), 2023, contrary to the statutory scheme and the Hon'ble Supreme Court decisions, including ***Denash v. State of Tamil Nadu***¹.

¹ 2025 SCC OnLine 2276



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9. The learned Judge failed to consider Sections 60(3) and 63 of the NDPS Act, which mandate a judicial determination of confiscation, after giving notice and an opportunity of hearing to the owner / claimants. There is no confiscation order; only seizure and forwarding. The impugned order does not advert to, or apply, the principles laid down in **Sunderbhai Ambalal Desai v. State of Gujarat**², **Bishwajit Dey v. State of Assam**³ and **Denash v. State of Tamil Nadu**⁴, which together require Courts to avoid unnecessary destruction of vehicles in police custody and recognise that administrative disposal mechanisms cannot override the jurisdiction of criminal Courts.

10. The learned Special Court did not properly weigh the hardship and irreparable loss that would be caused to the 1st petitioner and his minor children if the vehicle continues to be kept in the open, leading to deterioration and loss of value. The impugned order is cryptic and one-sided, resting solely on apprehensions of non-production, without exploring whether such apprehensions can be effectively addressed by stringent conditions, bonds, sureties and undertakings.

2 (2002) 10 SCC 283

3 2025 INSC 32

4 Supra 1



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Submissions:

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11. Mr. S. Sathish, learned counsel for the petitioner, submitted that the 1st petitioner and his minor children are the legal heirs of the deceased registered owner (Nithiya), and thus the rightful claimants to the vehicle; there is no contest on this aspect. Section 36-C of the NDPS Act expressly applies the provisions of the Code of Criminal Procedure, 1973 (and now BNSS) to proceedings before the learned Special Courts save as otherwise provided; Section 51 of the NDPS Act applies the Code to searches and seizures, to the extent not inconsistent.

12. Sections 451 and 457 Cr.P.C., 1973 / Sections 497 and 503 BNSS, 2023, confer on criminal Courts the power to order proper custody, interim release and disposal of property seized during investigation or produced as case property. Confiscation of a vehicle in NDPS matters lies within Sections 60(3) and 63 of the NDPS Act, which require a judicial process with notice and hearing; until such confiscation is ordered, the claim of the owner to interim custody cannot be shut out merely by reference to the Drug Disposal Committee.



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13. Relying on **Sunderbhai Ambalal Desai v. State of Gujarat**⁵, he submitted that keeping vehicles in police custody for long periods is undesirable and that they should normally be returned to the owner on proper terms, since they rapidly deteriorate and become junk. Placing reliance on **Bishwajit Dey v. State of Assam**⁶, the learned counsel for the petitioner submitted that the Hon'ble Supreme Court has categorised typical situations of vehicle seizure and has clearly indicated that, where there is a bona fide owner / claimant, the vehicle should usually be released on *superdari*, subject to conditions protecting the prosecution's interest.

14. He further stressed the case of **Denash v. State of Tamil Nadu**⁷, where the Hon'ble Supreme Court held that administrative disposal mechanisms and NDPS disposal rules cannot divest Courts of their powers under Sections 451 / 457 Cr.P.C., 1973 (497 / 503 BNSS, 2023) and cannot override the owner's statutory rights under Sections 60(3) and 63 of the NDPS Act. The petitioner is prepared to execute a substantial bond, furnish solvent sureties and file an undertaking not

5 (2002) 10 SCC 283

6 2025 INSC 32

7 2025 SCC OnLine 2276



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to alienate or misuse the vehicle and to produce it whenever required.

On these grounds, he urged that the impugned order be set aside and interim custody granted.

15. Per contra, Mr. T. Senthil Kumar, learned Additional Public Prosecutor, contended that, the case in Crime No.438 of 2024 involves serious offences under the NDPS Act, with an allegation that Accused No.1 (the petitioner) was selling ganja using the Maruti Suzuki Dzire car. The vehicle is thus an instrumentality of the offence and is liable, in due course, for confiscation under the NDPS Act. The vehicle has already been produced before the Drug Disposal Committee, and disposal / confiscation steps have been initiated.

16. There is a reasonable apprehension that if the vehicle is released to the petitioner, he may not produce it in future, especially considering his status as an accused. This would prejudice the prosecution and frustrate confiscation proceedings. Having regard to the gravity of NDPS offences and these apprehensions, the learned Special Judge rightly exercised caution and refused interim custody. He, therefore, prayed 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 light of the rival submissions, the principal point for determination is whether the learned Principal Special Judge for NDPS Act Cases, Madurai, was right in refusing interim custody of the Maruti Suzuki Dzire car bearing Registration No. TN-14-U-1924 to the petitioner on the grounds that the vehicle was allegedly used for selling ganja and has been produced before the Drug Disposal Committee, or whether, in view of Sections 36-C, 51, 60(3) and 63 of the NDPS Act read with Sections 497 and 503 of the BNSS, 2023, and the principles laid down in ***Sunderbhai Ambalal Desai v. State of Gujarat***⁸, ***Bishwajit Dey v. State of Assam***⁹ and ***Denash v. State of Tamil Nadu***¹⁰, the petitioner is entitled to interim custody subject to stringent conditions.

⁸ (2002) 10 SCC 283

⁹ 2025 INSC 32

¹⁰ 2025 SCC OnLine 2276



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Analysis:

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19. The NDPS Act is a special statute; however, Section 36-C of the NDPS Act applies the provisions of the Code of Criminal Procedure to Special Court proceedings, save as otherwise provided in the Act. Section 51 of the NDPS Act applies the Code to warrants, arrests, searches and seizures, to the extent not inconsistent with the NDPS Act.

20. Section 451 Cr.P.C., 1973 / Section 497 BNSS, 2023, permits the Court to make appropriate orders for custody and disposal of property pending trial. Section 457 Cr.P.C., 1973 / Section 503 BNSS, 2023, empowers the Court, upon a police report of seizure, to decide entitlement to possession and order delivery or other suitable directions.

21. Section 60(3) of the NDPS Act, provides that a conveyance used for transporting narcotic drugs shall be liable to confiscation unless the owner proves lack of knowledge / connivance and that due precautions were taken. Section 63 of the NDPS Act sets out the procedure for confiscation, mandating a judicial decision by the Court



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after notice and hearing to the person claiming any right over the property.

22. Thus, the NDPS Act deals with the substantive liability of property to confiscation and the procedure for such confiscation, while the Code / BNSS continues to regulate interim custody and preservation of property pending final adjudication, unless there is a direct inconsistency. No provision in NDPS expressly forbids interim release of vehicles; instead, it protects owners with Section 60(3) and Section 63 of the NDPS Act, which presuppose a judicial forum.

23. The prosecution placed emphasis on the fact that the vehicle has been produced before the Drug Disposal Committee. In **Denash v. State of Tamil Nadu**¹¹, the Hon'ble Supreme Court clarified that the Drug Disposal Committees and rules under NDPS concerning disposal of seized property are administrative and subordinate mechanisms. They cannot override or curtail the jurisdiction of criminal Courts under Sections 451 / 457 Cr.P.C., 1973 (497 / 503 BNSS) to pass orders on interim custody of seized vehicles. Nor can they override the statutory safeguards under Sections 60(3) and 63 of the NDPS Act, which reserve

¹¹ 2025 SCC OnLine 2276



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the final say on confiscation to the Court.

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24. Therefore, the mere production of the vehicle before a Drug Disposal Committee on a given date does not disable the Special Court or this Court from ordering interim custody to a rightful claimant, especially where confiscation has not yet been judicially ordered. Any action contemplated by the Disposal Committee must, necessarily, bow to subsequent judicial orders.

25. In ***Sunderbhai Ambalal Desai v. State of Gujarat***¹², the Hon'ble Supreme Court stressed that the vehicles seized in connection with offences should not be allowed to remain in police custody for long, as they deteriorate rapidly. The Courts should promptly release such vehicles to the owner on *superdari*, taking photographs and recording identifying features, so that their evidentiary value is preserved without physical decay.

26. In ***Bishwajit Dey v. State of Assam***¹³, the Hon'ble Supreme

¹² (2002) 10 SCC 283

¹³ 2025 INSC 32



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Court examined different scenarios involving seizure from conveyances and underscored that, where a person is a bona fide owner or claimant, the normal rule is to favour interim release of the vehicle, subject to safeguarding the prosecution's interest through bonds and undertakings. It emphasised that criminal process must be practical and balanced, and that the law should not countenance needless economic destruction of valuable property.

27. Although in ***Bishwajit Dey v. State of Assam*¹⁴**, the Hon'ble Supreme Court often considered situations where the claimant was not an accused, the underlying principle that vehicles should not rot in yards where conditions can be imposed to secure their production applies broadly, and suggests that a categorical “no release if accused” policy is not consistent with the spirit of the law.

28. In the present case, the vehicle was originally registered in the name of the 1st petitioner's late wife Nithiya; the petitioner and his minor children are her legal heirs and thus rightful claimants. For practical purposes, the petitioner, as father and natural guardian, is the appropriate person to seek interim custody. The vehicle is a Maruti

¹⁴ 2025 INSC 32



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Suzuki Dzire, used for personal and domestic purposes. It has been in police custody since December 2024, exposed to sun, rain, and natural elements, inevitably undergoing natural decay and depreciation.

29. The prosecution alleges that the 1st petitioner (as Accused No. 1) was selling ganja using the vehicle. This is a serious allegation and will have to be adjudicated during trial. As of now, there is no final conviction or order of confiscation. The vehicle has been produced before the Drug Disposal Committee; however, as per ***Denash v. State of Tamil Nadu***¹⁵, this does not preclude judicial orders regarding interim custody. The apprehension that the petitioner may not produce the vehicle in future can be effectively addressed by imposing stringent conditions, including: a substantial bond with solvent sureties; detailed documentation (photographs, engine / chassis numbers, etc.); prohibition on sale, transfer, or alteration of the vehicle; and an undertaking to produce the vehicle whenever required and to abide by any final confiscation order.

30. On the other side of the scale, refusal to release the vehicle ensures that, even if the 1st petitioner or his children later succeed in

¹⁵ 2025 SCC OnLine 2276



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establishing rights or lack of knowledge under Section 60(3) of the NDPS Act, the asset may have by then lost much of its value due to prolonged disuse and exposure.

31. In this balance, and guided by the approach in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁶, **Bishwajit Dey v. State of Assam**¹⁷ and **Denash v. State of Tamil Nadu**¹⁸, this Court is of the view that the learned Special Judge erred in treating forwarding to the Drug Disposal Committee and apprehension of non-production as reasons for blanket refusal, instead of exploring whether conditional release could adequately safeguard the prosecution's interest.

32. In the result, this Criminal Revision Petition is allowed. The order dated 20.06.2025 passed in Crl.M.P.No.1358 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside.

33. The respondent police are directed to release the Maruti

¹⁶ (2002) 10 SCC 283

¹⁷ 2025 INSC 32

¹⁸ 2025 SCC OnLine 2276



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Suzuki Dzire car bearing Registration No. TN-14-U-1924 to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.1,00,000/- (Rupees One Lakh 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.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 Certificate of the vehicle before the learned Principal Special Court for NDPS 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;



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(f) the petitioner shall produce the vehicle on every day before the learned Trial Court.

34. It is made clear that this order pertains only to the question of interim custody of the vehicle, and shall not be construed as expressing any opinion on the merits of the prosecution in Crime No.438 of 2024 or on the ultimate question of confiscation under the NDPS Act, which shall be independently decided by the Trial Court on the basis of evidence.

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

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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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,
Checkanurani Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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