



CRL RC(MD)No.1104 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON : 27.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.1104 of 2025

Medharsha@ Asif.

... Petitioner

Vs.

State of Tamil Nadu,
Rep. through the Inspector of Police,
Town West Police station
Dindigul.
(Crime No.293 of 2025)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to set aside the order dated 04.08.2025 made in CrI.M.P.No.2147 of 2025 on the file of the learned Judicial Magistrate No.1, Dindigul by allowing this Criminal Revision Petition and directing the respondent to return the seized property to the petitioner.

For Petitioner : Mr.M.Venkatesan

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 04.08.2025 passed in CrI.M.P.No.2147 of 2025 by the learned Judicial Magistrate No.I, Dindigul, refusing to grant interim custody of a Royal Enfield Himalayan motorcycle bearing Registration No. TN-57-BM-8218 (Engine No. D4A5F1ML127442 / Chassis No. ME3D4A5F1ML002305), seized in connection with Crime No.293 of 2025 on the file of Town West Police Station, Dindigul, registered for offences under Sections 8(c), 20(b)(ii)(A) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as “NDPS Act”).

2. The learned Magistrate dismissed the petition essentially on the grounds that the petition is “not maintainable”, that investigation is pending, and that if the vehicle is returned, the petitioner will not produce it in future.

Case of the Prosecution:

3. The prosecution case, as can be gathered from the FIR, case



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records and the objection filed before the learned Magistrate, is briefly as follows:

Crime No.293 of 2025 was registered on the file of Town West Police Station, Dindigul, for alleged offences under Sections 8(c), 20(b)(ii)(A) and 25 of the NDPS Act. The allegation is that certain persons were found in possession / transport of ganja in a quantity attracting Section 20(b)(ii)(A) (small quantity), constituting an offence under Section 8(c) read with 20(b)(ii)(A), and that the vehicle mentioned below was used in connection with the said offence.

4. The police seized the Royal Enfield Himalayan motorcycle bearing Registration No. TN-57-BM-8218, with Engine and Chassis numbers as noted above, treating it as a conveyance involved in the commission of the NDPS offence. The motorcycle is presently in the custody of the respondent police, kept in the police station as case property. In the written objection filed to Crl.M.P.No.2147 of 2025, the prosecution stated that the application for return of the vehicle is “not maintainable” and that the investigation is still pending, and that if the vehicle is handed over to the petitioner, he will not produce it in future. On this basis, the prosecution strongly opposed interim release of the vehicle.



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Case of the Petitioner:

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5. The petitioner's case, as projected in CrI.M.P.No.2147 of 2025 and reiterated before this Court, is as follows:

The petitioner is the registered owner of the Royal Enfield Himalayan motorcycle bearing Registration No. TN-57-BM-8218, with Engine No. D4A5F1ML127442 and Chassis No. ME3D4A5F1ML002305. The said motorcycle was seized in connection with Crime No.293 of 2025, registered for offences under Sections 8(c), 20(b)(ii)(A) and 25 of the NDPS Act, and has been kept in the custody of the respondent police. The petitioner contends that he is the lawful owner of the motorcycle and that he is not involved in the alleged NDPS offence, and that there is no nexus between him personally and any illicit transportation of contraband.

6. He states that the motorcycle is now kept at the police station in an open space, exposed to rain, sun and other natural factors, and is thus undergoing natural decay and mechanical deterioration. If the motorcycle is kept continuously in the respondent police station, it will eventually lose its value and become unfit for proper road use, causing serious financial loss and hardship to him. He asserts that he is ready



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and willing to produce the vehicle whenever required by the Court or the Investigating Officer, to furnish bonds and sureties, and to comply with any conditions the Court may impose. On these grounds, he sought interim return of the motorcycle, which request was declined by the learned Magistrate.

Gist of the Trial Court Order:

7. By order dated 04.08.2025 in CrI.M.P.No.2147 of 2025, the learned Judicial Magistrate No.I, Dindigul, dismissed the petitioner's application. From the material placed, the substance of the order is:

The vehicle stands seized in connection with an NDPS case in Crime No.293 of 2025, and investigation is pending. The prosecution has stated that the petition is not maintainable, and that if the vehicle is returned to the petitioner, he will not produce it in future. Having regard to the pendency of investigation and the objection raised by the prosecution, the Court held that interim custody of the vehicle cannot be granted. Accordingly, the petition for return of property was dismissed.



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Grounds of Revision:

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8. The petitioner challenges the impugned order broadly on the following grounds:

The finding that the petition is “not maintainable” is legally unsustainable, inasmuch as Sections 451 and 457 Cr.P.C.,1973 (now Sections 497 and 503 BNSS) specifically confer power on criminal courts, including Magistrates, to pass appropriate orders regarding seized property. The learned Magistrate failed to appreciate that the petitioner is the registered owner of the motorcycle, and, on the material now available, a bona fide claimant whose rights are protected by Sections 60(3) and 63 of the NDPS Act.

9. The Court below did not consider or apply the principles laid down by the Hon’ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹, **Bishwajit Dey v. State of Assam**² and **Denash v. State of Tamil Nadu**³, which emphasise that vehicles should not be left to deteriorate in police custody and that courts retain jurisdiction to

1 (2002) 10 SCC 283

2 2025 INSC 32

3 2025 SCC OnLine 2276



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grant interim custody even in NDPS matters, subject to stringent conditions. The learned Magistrate has mechanically accepted the prosecution's apprehension that the vehicle will not be produced in future, without examining whether such apprehension can be adequately addressed by imposing bonds, sureties and undertakings. The impugned order is cryptic and fails to balance the public interest in prosecution of NDPS offences with the property and livelihood interests of the owner, who stands to suffer irreparable loss by continued detention of the vehicle.

Submissions:

10. The learned counsel for the petitioner, Mr. M. Venkatesan, submitted that the petitioner is the undisputed registered owner of the motorcycle, and that there is no material placed to show that he has been formally arrayed as an accused or that there is any *prima facie* evidence of his knowledge or connivance in the alleged NDPS offence at this stage. Under Section 36-C of the NDPS Act, the provisions of the Code of Criminal Procedure (and now BNSS) apply to proceedings relating to NDPS offences, except where a different procedure is expressly provided. Section 51 of the NDPS Act similarly applies the Code to searches and seizures under the Act, insofar as there is no



inconsistency.

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11. Sections 451 and 457 Cr.P.C.,1973 / Sections 497 and 503 of the BNSS empower criminal courts, including Magistrates, to make orders regarding proper custody, interim delivery and disposal of property produced before them or reported as seized. Confiscation of a conveyance is governed by Sections 60(3) and 63 of the NDPS Act, which require a judicial determination, after evidence and hearing the owner, there is presently no such confiscation order.

12. He relied on **Sunderbhai Ambalal Desai v. State of Gujarat**⁴, where the Hon'ble Supreme Court held that seized vehicles should not be kept in police custody for long periods and should normally be returned to owners on appropriate terms, since they decay and lose value when left in yards. He further relied on **Bishwajit Dey v. State of Assam**⁵, where the Hon'ble Supreme Court classified typical situations of vehicle seizures and emphasised that, where a bona fide owner is not clearly complicit, interim release of the vehicle on superdari should ordinarily be granted, subject to conditions.

4 (2002) 10 SCC 283

5 2025 INSC 32



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13. He referred to **Denash v. State of Tamil Nadu**⁶, wherein The Hon'ble Supreme Court clarified that NDPS disposal mechanisms and rules cannot divest criminal courts of jurisdiction under Sections 451 / 457 Cr.P.C.,1973 (497 / 503 BNSS), nor can they override the safeguards contained in Sections 60(3) and 63 of the NDPS Act. The apprehension that the petitioner may not produce the vehicle can be adequately addressed by imposing stringent conditions, such as a substantial bond, solvent sureties, prohibition of alienation, and an undertaking to produce the vehicle whenever required. On these grounds, he prayed that the revision be allowed and the vehicle released on interim custody.

14. Per contra, learned Additional Public Prosecutor Mr. T. Senthil Kumar submitted that the vehicle has been seized in connection with Crime No.293 of 2025 for NDPS offences, and investigation is still pending. The prosecution reasonably apprehends that, if the motorcycle is handed over on interim custody, the petitioner may not produce it in future, thus impacting both the trial and any confiscation proceedings. Given the nature of NDPS offences and the pendency of investigation, the learned Magistrate was justified in refusing to release the vehicle. He therefore supported the impugned order and prayed for dismissal of
6 2025 SCC OnLine 2276

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the revision.

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15. Heard the learned counsel on either side and carefully perused the materials available on record.

Point for Consideration:

16. In the light of the rival submissions, the following point arises for determination whether the learned Judicial Magistrate No.I, Dindigul, was right in rejecting the petitioner's request for interim custody of the Royal Enfield Himalayan motorcycle bearing Registration No. TN-57-BM-8218 solely on the grounds of pendency of investigation and apprehension of non-production, 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 and the principles laid down in ***Sunderbhai Ambalal Desai v. State of Gujarat***⁷, ***Bishwajit Dey v. State of Assam***⁸ and ***Denash v. State of Tamil Nadu***⁹, the petitioner is entitled to interim custody on appropriate conditions.

⁷ (2002) 10 SCC 283

⁸ 2025 INSC 32

⁹ 2025 SCC OnLine 2276



Analysis:

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17. The NDPS Act is a special statute. However, Section 36-C of the NDPS Act makes the provisions of the Code of Criminal Procedure applicable to proceedings under the Act, save as otherwise provided. Section 51 of the NDPS Act applies the provisions of the Code to warrants, arrests, searches and seizures under the Act, insofar as they are not inconsistent. Section 451 Cr.P.C.,1973 / Section 497 BNSS empower criminal courts to order proper custody and, where necessary, disposal of property pending trial, including return to the person entitled to possession. Section 457 Cr.P.C.,1973 / Section 503 BNSS deal with property seized by police and reported to a Magistrate, and empowering the Court to decide entitlement to possession and to deliver the property to such person on appropriate terms.

18. Section 60(3) of the NDPS Act provides that a conveyance used for transporting narcotic drugs is liable to confiscation unless the owner proves that it was used without his knowledge or connivance and that he had taken reasonable precautions. Section 63 of the NDPS Act mandates that confiscation shall be ordered by the Court after giving notice and an opportunity of hearing to any person claiming any right over the property. Thus, the scheme distinguishes Interim custody /



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preservation of property governed by the Code / BNSS, and final confiscation is a judicial decision under Sections 60(3) and 63 of the NDPS Act. There is no provision in the NDPS Act which declares that a vehicle, once seized in an NDPS case, cannot be released on interim custody. On the contrary, Sections 60(3) and 63 of the NDPS Act presuppose that the owner retains rights subject to a later judicial determination.

20. In ***Sunderbhai Ambalal Desai v. State of Gujarat***¹⁰, the Hon'ble Supreme Court held that the Courts should not allow vehicles to remain in police custody for long, vehicles kept in open yards rapidly deteriorate and lose value, and Magistrates should promptly pass orders to release such vehicles to the owner on *superdari*, after recording appropriate details and photographs, so that the evidentiary requirements are preserved without destroying the property.

21. In ***Bishwajit Dey v. State of Assam***¹¹, the Hon'ble Supreme Court examined common scenarios involving seizure of vehicles and highlighted that, in cases where the owner is not clearly shown to be complicit, the normal rule is to release the vehicle on interim custody to

¹⁰ (2002) 10 SCC 283

¹¹ 2025 INSC 32



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the owner, with appropriate conditions. Emphasised the need for a pragmatic, balanced approach, rather than a blanket “no release” stance.

22. In ***Denash v. State of Tamil Nadu***¹², the Hon'ble Supreme Court clarified that NDPS disposal mechanisms and rules (including Drug Disposal Committees and the 2022 Rules framed under Section 52-A) are subordinate, administrative schemes. It held that such schemes cannot divest criminal courts of jurisdiction under Sections 451 / 457 Cr.P.C.,1973 (497 / 503 BNSS) to deal with seized property and cannot override the statutory rights of owners under Sections 60(3) and 63 of the NDPS Act. The Hon'ble Apex Court reiterated that confiscation is a judicial function, not an administrative one. Collectively, these decisions underscore that the interim custody of vehicles remains within the Court's domain, vehicles should not be left to decay in police yards, and apprehensions of future non-production or misuse are to be controlled by conditions, not by denial of jurisdiction.

23.The petitioner is the registered owner of the Royal Enfield Himalayan motorcycle. There is no material placed before this Court to

¹² 2025 SCC OnLine 2276



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show that he has been arrayed as an accused, or that there is positive material of his knowledge or connivance at this stage. The motorcycle is currently in the custody of the respondent police, and by the petitioner's uncontroverted statement, is kept in the open yard, exposed to sun, rain and weather, and is undergoing natural decay. The learned Magistrate dismissed the petition essentially on two grounds, that are, pendency of investigation, and apprehension that the petitioner may not produce the vehicle in future.

24. Neither of these grounds constitutes a legal bar to the exercise of jurisdiction under Sections 451 and 457 Cr.P.C.,1973 / 497 and 503 of the BNSS. On the contrary, those very provisions are designed to be used during investigation and trial to regulate interim custody. The apprehension that the petitioner may not produce the vehicle can be adequately addressed by imposing stringent conditions, including a substantial bond, solvent sureties, prohibition of alienation, detailed documentation of the vehicle's identity, and an undertaking to produce the vehicle whenever required.

25. If the vehicle is permitted to remain indefinitely in the police



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station, its value will be substantially destroyed, this outcome is contrary to the guidance in **Sunderbhai Ambalal Desai v. State of Gujarat**¹³ and **Bishwajit Dey v. State of Assam**¹⁴, and does not serve either the interests of the State or of the owner. It is important to note that granting interim custody does not preclude any future order of confiscation under Section 63 of the NDPS Act, it only ensures that, until such determination, the property is preserved and meaningfully used by its owner, subject to the Court's control.

26. In these circumstances, this Court is of the considered view that the impugned order suffers from a misdirection in law and warrants interference.

27. In the result, the Criminal Revision Petition is allowed. The order dated 04.08.2025 in CrI.M.P.No.2147 of 2025 passed by the learned Judicial Magistrate No.I, Dindigul, is set aside.

28. The respondent police are directed to release the Royal Enfield

¹³ (2002) 10 SCC 283

¹⁴ 2025 INSC 32



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Himalayan motorcycle bearing Registration No. TN-57-BM-8218 (Engine No. D4A5F1ML127442 / Chassis No. ME3D4A5F1ML002305) to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the Manolaya, Indian Overseas Bank, Kottaram Branch, Account No. 025302000000284, IFSC Code: IOBA0000253;
- (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 Judicial Magistrate No.1, Dindigul;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.1, Dindigul;
- (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



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alteration in the vehicle;

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(f) the petitioner shall produce the vehicle before the learned Trial Court on 1st Monday of every English calendar month;

29. It is made clear that this order concerns only 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.293 of 2025 or on the ultimate question of confiscation, which shall be decided independently by the competent Court on the basis of evidence.

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

27.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Judicial Magistrate No.1, Dindigul.

2.The Inspector of Police,
Town West Police station
Dindigul.

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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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