



CRL RC(MD)No.1097 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.1097 of 2025

Arivazhagan

... Petitioner

Vs.

State of Tamilnadu,
Rep. by
The Sub Inspector of Police,
Gudalur North Police Station,
Theni District.
(Crime No.252/2024)

... 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.1668 of 2025 in Crime No.252 of 2024 dated 16.07.2025 on the file of the learned Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai and set aside the same.

For Petitioner : Mr.K.Sivabalan
for M/s.Aran Legal Consultancy

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 16.07.2025 made in CrI.M.P.No.1668 of 2025 on the file of the learned Principal Special Judge for NDPS Act Cases, Madurai, whereby the petition filed by the present petitioner seeking interim custody of his Ertiga car bearing Registration No.TN-58-BW-9103, seized in connection with Crime No.252 of 2024 on the file of Gudalur North Police Station, Theni District, came to be dismissed.

Case of the Prosecution:

2. The case of the prosecution, in brief, is that Crime No.252 of 2024 was registered on the file of Gudalur North Police Station for alleged offences under Sections 8(c), 20(b)(ii)(C), 29(1), 27A and 25 of the NDPS Act, relating to the seizure of a substantial quantity of ganja. During the course of investigation, the respondent police arrested four persons, namely, Ilakiya, Dinesh Kumar, Saravanan and Ravikumar, and the contraband ganja bags were stated to have been recovered from the possession of the said accused persons.

3. In connection with the said crime, the respondent police also



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seized an Ertiga car bearing Registration No.TN-58-BW-9103, which, according to the prosecution, was used as a conveyance in the commission of the offence. It is not in dispute that the said vehicle stands registered in the name of the present petitioner. It is the specific stand of the prosecution that the vehicle has already been produced under Section 52-A of the NDPS Act before the Criminal Justice Department pursuant to an order passed by the competent Court at Uttamapalayam and, in terms of that order, the vehicle is now pending to be handed over to the Drug Disposal Committee for disposal.

4. Proceeding on this premise, the prosecution contends that once the process under Section 52-A read with the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, has commenced, the vehicle is, for all practical purposes, to be treated as “government property” and that the Court thereafter cannot direct release of the vehicle to any third party. On that basis, the respondent has strongly opposed interim custody being granted in favour of the petitioner.

Case of the Petitioner:

5. The petitioner asserts that he is the registered and absolute



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owner of the Ertiga car bearing Registration No.TN-58-BW-9103 and that he has not been arrayed as an accused in Crime No.252 of 2024.

He states that the respondent police have not treated him as an offender in the said crime and that the prosecution is confined to the four aforementioned accused persons. It is the specific plea of the petitioner that the vehicle was used by the said accused persons without his knowledge or consent and that he has no connection whatsoever with the alleged offences or the accused. He submits that he alone is the lawful owner of the vehicle and that he requires it for his own use and for the needs of his family.

6. The petitioner further points out that ever since the seizure, the Ertiga car has been kept in open storage, either at the police station or at some other yard, exposed to sun, rain and other natural elements and, as a result, the vehicle is undergoing rapid deterioration, both in terms of mechanical fitness and in terms of market value. He submits that continued detention of the vehicle in such conditions would render it almost worthless and that such an outcome would visit severe financial hardship upon him, although he is not even an accused in the case.



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7. The petitioner submits that, as a bona fide owner who is not the accused, he is entitled to the benefit of Section 60(3) of the NDPS Act, which protects owners who can show lack of knowledge or connivance and exercise of reasonable precautions. He contends that, in any event, the question of confiscation, if at all, can arise only after a judicial enquiry under Section 63 of the NDPS Act and that, until such time, his property rights cannot be eclipsed by the mere fact that the vehicle has been forwarded to the Drug Disposal Committee.

8. The petitioner states that he is ready and willing to furnish a substantial bond and two solvent sureties, to file an affidavit of undertaking, to produce the vehicle whenever required by the trial Court or by the Investigating Officer, and not to alienate, encumber or alter the vehicle without the leave of the Court. He places reliance upon the decisions in **Bishwajit Dey v. State of Assam¹**, **Sunderbhai Ambalal Desai v. State of Gujarat²** and **Denash v. State of Tamil Nadu³** to contend that confiscation is ultimately a judicial act, that Drug Disposal Committees are merely administrative bodies with no

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2 (2002) 10 SCC 283

3 2025 SCC OnLine 2276



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adjudicatory power, that Section 52-A does not override Sections 60(3) and 63 of the NDPS Act and that the power to grant interim custody continues to vest in the Courts.

Gist of the Order of the learned Trial Court:

9. The learned Principal Special Judge for NDPS Act Cases, Madurai, by order dated 16.07.2025 in CrI.M.P.No.1668 of 2025, dismissed the petitioner's request for interim custody of the Ertiga car. From the tenor of the impugned order, it is seen that the learned Special Judge has primarily relied upon the following aspects that the vehicle has already been forwarded under Section 52-A of the NDPS Act and that the order of the Court at Uttamapalayam indicates that the vehicle is pending before the Drug Disposal Committee, that, since disposal is pending, the vehicle has, in effect, become "government property" and that, therefore, the question of granting interim custody to the petitioner does not arise.

10. The impugned order does not disclose any independent analysis of the scope of Sections 497 and 503 of the BNSS, the nature and effect of Sections 60(3) and 63 of the NDPS Act, the impact of the



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decision of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁴ or the principles laid down in **Sunderbhai Ambalal Desai v. State of Gujarat**⁵, **Sainaba v. State of Kerala**⁶ and **Bishwajit Dey v. State of Assam**⁷ against allowing vehicles to rot in police or Court custody.

Grounds of Revision:

11. The petitioner challenges the impugned order on several grounds. He submits that the learned Special Judge has misinterpreted Section 52-A of the NDPS Act and has wrongly assumed that forwarding a seized vehicle to the Drug Disposal Committee under the 2022 Rules *ipso facto* extinguishes the jurisdiction of the Court to order interim custody. He contends that the impugned order runs counter to the binding judgments of the Hon'ble Supreme Court in **Bishwajit Dey v.**

⁴ 2025 SCC OnLine 2276

⁵ (2002) 10 SCC 283

⁶ 2022 SCC OnLine SC 1784

⁷ 2025 INSC 32



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State of Assam⁸, Denash v. State of Tamil Nadu⁹ and Sunderbhai Ambalal Desai v. State of Gujarat¹⁰, which, read together, hold that the power of the criminal Court to grant interim custody of vehicles remains intact notwithstanding the existence of Section 52-A procedures and that the function of deciding confiscation is judicial and not administrative.

12. The petitioner further urges that the learned Special Judge has failed to recognise that Section 60(3) of the NDPS Act confers a substantive protection upon owners who are not involved in the offence and that Section 63 mandates that confiscation can be ordered only by a Court of law, after affording an opportunity of hearing to the person claiming a right to the property. He asserts that the conclusion of the trial Court that the vehicle has “become government property” at the stage of pending disposal is wholly without legal foundation. It is also contended that the trial Court has overlooked the practical reality of natural decay of vehicles detained in open yards and has not considered the hardship that would ensue to the petitioner through continued

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9 2025 SCC OnLine 2276

10 (2002) 10 SCC 283



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detention of his car, particularly when he is not an accused in the case.

The petitioner submits that the Special Court has fallen into a jurisdictional error in declining interim custody on the ground that its power stood eclipsed by the reference to the Drug Disposal Committee.

Submissions:

13. The learned counsel for the petitioner, Mr. K. Sivabalan, appearing for M/s. Aran Legal Consultancy, reiterated the above grounds and submitted that the petitioner is a bona fide owner who is not the accused and thus, he is expressly entitled to invoke the protection embedded in Section 60(3) of the NDPS Act. He contended that, as held in ***Denash v. State of Tamil Nadu***¹¹, the 2022 NDPS Disposal Rules and the procedure under Section 52-A cannot be read as overriding or neutralising the general powers of criminal Courts under Sections 451 and 457 of the Code of Criminal Procedure (now Sections 497 and 503 of the BNSS).

14. He argued that the Drug Disposal Committees constituted under the 2022 Rules are mere administrative bodies tasked with the physical destruction or disposal of case properties, including vehicles, and that they have no adjudicatory authority to decide ownership or

¹¹ 2025 SCC OnLine 2276



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confiscation. He submitted that the trial Court has clearly erred in treating the forwarding of the vehicle to such a Committee as tantamount to vesting of ownership in the State and in labelling the property as “government property” in advance of a judicial confiscation order.

15. The learned counsel emphasised that the Ertiga car is a valuable vehicle, that it is undergoing natural decay and that continued detention in an open yard would result in irreversible loss to the petitioner. He submitted that the petitioner’s rights can be adequately protected by granting interim custody with strict conditions regarding bonds, sureties, non-alienation, production on demand and affidavits of undertaking and therefore prayed that the revision be allowed.

16. Per contra, the learned Additional Public Prosecutor, Mr. T. Senthil Kumar, supported the order of the trial Court and submitted that the vehicle has already been forwarded under Section 52-A of the NDPS Act for disposal as per the 2022 Rules and that the Court ought not to interfere with the process. He submitted that any order of interim custody may compromise the prosecution as well as the disposal



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proceedings and that the safer course is to retain the vehicle until a final decision is taken. On that basis, he submitted that the revision petition deserves to be dismissed.

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

Point for Consideration:

18. In the above factual and legal background, the point that arises for consideration is whether the refusal by the learned Principal Special Judge for NDPS Act Cases, Madurai, to grant interim custody of the Ertiga car bearing Registration No.TN-58-BW-9103 to the petitioner, on the ground that the vehicle has been forwarded under Section 52-A of the NDPS Act and is pending before the Drug Disposal Committee, is legally sustainable, or whether, in light of Sections 497 and 503 of the BNSS, Sections 52-A, 60(3) and 63 of the NDPS Act, the 2022 Disposal Rules and the decisions of the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***¹², ***Bishwajit Dey v. State of Assam***¹³ and

¹² 2025 SCC OnLine 2276

¹³ 2025 INSC 32



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Sunderbhai Ambalal Desai v. State of Gujarat¹⁴, the petitioner is entitled to interim release of the vehicle on suitable conditions.

Analysis:

19. It is well settled that Sections 497 and 503 of the BNSS, corresponding to the erstwhile Sections 451 and 457 of the Code of Criminal Procedure, confer wide powers upon criminal Courts to pass such orders as they think fit for the proper custody of property pending inquiry or trial, to deliver such property to any person claiming to be entitled to possession and to take necessary steps to prevent property from being wasted, damaged or subjected to speedy and natural decay. By virtue of Sections 36-C and 51 of the NDPS Act, the provisions of the Code of Criminal Procedure, and now of the BNSS, apply to proceedings under the NDPS Act in so far as they are not inconsistent with the provisions of that Act. There is no provision in the NDPS Act which expressly or impliedly prohibits the grant of interim custody of a seized vehicle by the Court. Consequently, the jurisdiction of the Special Court to entertain and allow applications for interim custody of vehicles seized in NDPS cases continues to subsist.

¹⁴ (2002) 10 SCC 283



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20. Section 52-A of the NDPS Act, read with the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, provides a machinery for drawing inventory, sampling, certification and for disposal of seized narcotic drugs, psychotropic substances and conveyances through the Drug Disposal Committee. These Rules are framed in exercise of the power under the NDPS Act and are subordinate in nature. They facilitate the destruction or disposal of case properties but do not, and cannot, abridge substantive rights conferred by the Act or the jurisdiction of the Courts under the general procedural law. Sections 60(3) and 63 of the NDPS Act delineate the scheme of confiscation. Section 60(3) declares that any conveyance used for carrying narcotic drugs or psychotropic substances shall be liable to confiscation, but the liability is expressly made subject to the proviso that the owner can avoid confiscation by proving that such use was without his knowledge or connivance and that he had taken all reasonable precautions to prevent such use. Section 63 mandates that it is for the Court to decide whether any article or conveyance seized under the Act is liable to confiscation and that no such order can be made without giving an opportunity of hearing to the person claiming a right to such property.

21. In other words, confiscation is a judicial act and not an



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automatic result either of seizure or of forwarding under Section 52-A.

There can be no “deemed government property” in advance of a confiscation order passed in terms of Section 63 after a proper enquiry and after hearing the person claiming ownership. Any view to the contrary would run counter to the express language of Sections 60(3) and 63 of the NDPS Act and to fundamental principles of natural justice.

22. The Hon’ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁵ has emphatically held that there is no purpose in keeping vehicles or other valuable properties in police custody for long periods, that such properties inevitably deteriorate and that it is the duty of criminal Courts to pass appropriate orders for interim custody or sale so as to preserve their value and prevent waste, subject to the rights of the parties being protected by imposing appropriate conditions.

23. In **Bishwajit Dey v. State of Assam** ¹⁶, the Supreme Court had occasion to examine different scenarios relating to seizure of contraband from vehicles and clarified that Courts must adopt a

15 (2002) 10 SCC 283

16 2025 INSC 32

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realistic approach to interim custody. It recognised that, particularly in cases where the owner is not implicated as an accused or where there is no allegation of knowledge or connivance, vehicles should ordinarily be released to the owner on interim custody with stringent conditions. The Court made it clear that criminal law is not to be applied in a vacuum and that prolonged idle custody of vehicles in police yards is neither desirable nor necessary.

24. In ***Denash v. State of Tamil Nadu***¹⁷, the Hon'ble Supreme Court directly addressed the effect of the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, and held, in unmistakable terms, that these Rules are purely supplemental and procedural and that they cannot override the provisions of the NDPS Act or the general powers of criminal Courts under Sections 451 and 457 of the Code of Criminal Procedure (now Sections 497 and 503 of the BNSS). The Court has clearly ruled that Drug Disposal Committees cannot usurp the judicial functions of Special Courts and that the institution of proceedings under Section 52-A does not divest the Special Court of its jurisdiction to entertain and decide applications for interim custody of vehicles.

¹⁷ 2025 SCC OnLine 2276



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25. In the light of the above pronouncements, the conclusion reached by the learned Special Judge that, by reason of forwarding the Ertiga car to the Drug Disposal Committee, the vehicle has become “government property” and that the Court is powerless to consider interim custody, cannot be sustained. Such an approach is directly contrary to the statutory scheme and to the law laid down by the Hon’ble Supreme Court.

26. In the present case, an additional and important factor is that the petitioner is not an accused in Crime No.252 of 2024. The prosecution has not arrayed him as an offender. On the contrary, he stands before this Court as a third party owner claiming that his vehicle was used without his knowledge or consent. In such a situation, Section 60(3) of the NDPS Act is clearly attracted, entitling him to show that he had no knowledge or connivance and that he had taken reasonable precautions. Until a Court of competent jurisdiction, after trial or appropriate enquiry, renders a finding on confiscation under Section 63 of the NDPS Act, his ownership cannot be treated as extinguished or divested.



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27. The Ertiga car, being a valuable mechanical asset, is susceptible to natural decay if kept idle in open custody. The longer it remains unused, the greater the deterioration and the loss in value. On the other hand, the evidentiary requirements of the prosecution can be adequately safeguarded by preparing a proper inventory, recording the engine and chassis numbers, photographing the vehicle from all necessary angles and, if required, having it identified during trial.

28. The apprehensions expressed by the prosecution that interim release may compromise prosecution or disposal proceedings can be satisfactorily addressed by insisting on a substantial bond, solvent sureties, an affidavit of undertaking, prohibiting alienation or encumbrance, reserving liberty to inspect and photograph the vehicle and directing production of the vehicle whenever required by the Court or the Investigating Officer.

29. In this view of the matter, the impugned order dated 16.07.2025 in Crl.M.P.No.1668 of 2025 suffers from a fundamental error of law in treating the forwarding of the vehicle under Section 52-A as a bar to interim custody and in assuming that the property has



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become government property without a confiscation order. The order cannot, therefore, be allowed to stand.

30. In the result, for all the foregoing reasons, this Court is of the considered opinion that the petitioner, being the registered owner of the Ertiga car bearing Registration No.TN-58-BW-9103 and not having been arrayed as an accused in Crime No.252 of 2024, is entitled to interim custody of the said vehicle, subject to stringent safeguards that protect the interests of the prosecution and preserve the possibility of confiscation.

31. Accordingly, this Criminal Revision Petition is allowed. The order dated 16.07.2025 made in Crl.M.P.No.1668 of 2025 on the file of the Principal Special Court for NDPS Act Cases, Madurai, is set aside.

32. The respondent police and the trial Court are directed to release the Ertiga car bearing Registration No.TN-58-BW-9103 to the petitioner on interim custody, subject to the following conditions which the petitioner shall strictly comply with.



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- (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 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 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;



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

33. It is made clear that the grant of interim custody by this order is confined to the limited question of care and custody of the vehicle pending disposal of the case and will not, in any manner, affect the merits of the prosecution in Crime No.252 of 2024. The trial Court shall be free, at the appropriate stage, to decide the issue of confiscation or otherwise of the vehicle under Section 63 of the NDPS Act on the basis of the evidence and submissions placed before it, uninfluenced by the fact that interim custody has been granted, save to the extent of enforcing the bond or directing payment of the assessed value, if confiscation is ultimately ordered.

34. With the above directions, this Criminal Revision Petition is allowed. There shall be no order as to costs.

27.11.2025

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To

- 1.The Principal Special Judge,
Principal Special Court for
Narcotic Drugs and Psychotropic
Substances Act Cases, Madurai.
- 2.The Sub Inspector of Police,
Gudalur North Police Station,
Theni 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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