



CRL RC(MD)No.1190 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.1190 of 2025

Packiaraj

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by the Inspector of Police,
Uthamapalayam Police Station,
Theni District.
(Crime No. 451/2023)

... Respondent

PRAYER: Criminal Revision Petition is filed under Sections 438 r/w. 442 of BNSS, 2023, to call for the records pertaining to the order passed in CrI.MP.No.687/2025 on the file of the learned 1st Additional Special Court for Trial of NDPS Act cases, Madurai, dated 20.05.2025 and set aside the same by allowing the revision petition.

For Petitioner : Mr.P.T.Ramesh Raja

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



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ORDER

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Preface:

This Criminal Revision Petition calls in question the correctness of the order dated 20.05.2025 passed in CrI.M.P.No.687 of 2025 by the learned I Additional Special Court for Trial of NDPS Act Cases, Madurai, whereby the application filed by the petitioner seeking interim custody of his Suzuki Gixxer motorcycle bearing Registration No.TN-42-AL-5073, seized in connection with Crime No.451 of 2023 on the file of Uthamapalayam Police Station, Theni District, came to be dismissed.

Case of the Prosecution:

2. The prosecution case, as could be gathered from the materials placed and the objection filed before the trial Court, may be succinctly stated thus Crime No.451 of 2023 was registered on the file of Uthamapalayam Police Station for the alleged offences under Sections 8(c), 20(b)(ii)(B), 25 and 29(1) of the NDPS Act. It is alleged that the petitioner's son, one Saravanakumar, who was arrayed as A1, along with other accused, was found in possession and in the act of transporting ganja to the total quantity of 2.5 kilograms. According to the prosecution, two motorcycles were intercepted at the relevant point



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of time, namely: (i) Suzuki Gixxer motorcycle bearing Registration No.TN-42-AL-5073, and (ii) Hero Honda Passion Plus motorcycle bearing Registration No.TN-58-K-2113.

3. From the pillion rider of each motorcycle, the police allegedly recovered 1.25 kilograms of ganja, aggregating to 2.5 kilograms. The Suzuki Gixxer bearing Registration No.TN-42-AL-5073 is not disputed to be registered in the name of the present petitioner, who is the father of the deceased A1. During the pendency of the proceedings, the said A1, Saravanakumar, is stated to have died in a road accident on 11.12.2024, upon which the case as against him has abated. However, the Suzuki Gixxer motorcycle remains in the custody of the prosecution.

4. It is the further stand of the respondent that the said vehicle has been forwarded to the Drug Disposal Committee in terms of the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, and that, therefore, the vehicle is now within the domain of the Drug Disposal Committee and cannot be released on interim custody to the petitioner.



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Case of the Petitioner:

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5. The case of the petitioner, as projected before the trial Court and reiterated before this Court, is that he is the registered owner of the Suzuki Gixxer motorcycle bearing Registration No.TN-42-AL-5073. The registration certificate stands in his name and is produced to substantiate his ownership. The petitioner points out that he has never been arrayed as an accused in Crime No.451 of 2023. There is no averment in the FIR or in the final report to the effect that he had any knowledge of, or connivance with, the alleged use of his motorcycle for transporting ganja. He asserts that he is an innocent owner, who has been drawn into hardship solely because his son, now deceased, is alleged to have used the vehicle.

6. The petitioner further states that, after seizure, the vehicle has been kept in the premises of the police station / storage yard in an open condition, exposed to sun, rain and other natural elements. On account of prolonged exposure and non-use, the motorcycle is undergoing rapid natural decay and deterioration in its mechanical condition and market value. The petitioner submits that the Drug Disposal Committee cannot assume jurisdiction over a vehicle which is not legally liable for confiscation, especially where the owner is innocent and is entitled to



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the statutory protection under Section 60(3) of the NDPS Act. He emphasises that no confiscation proceedings under Section 63 of the NDPS Act have been initiated and that the mere forwarding of the vehicle to the Drug Disposal Committee does not, in law, divest the Court of its jurisdiction nor convert the vehicle into Government property.

7. The petitioner relies upon the decisions of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat*¹, *Sainaba v. State of Kerala*², *Bishwajit Dey v. State of Assam*³, *Tarun Kumar Majhi v. State of West Bengal*⁴ and *Denash v. State of Tamil Nadu*⁵**, as well as the decisions of this Court in ***Crl.RC(MD)No.1251 of 2023*** and ***Crl.RC(MD)No.1744 of 2024***, to contend that criminal Courts retain the power and, in appropriate cases, the duty to grant interim custody of vehicles, notwithstanding their seizure in NDPS cases. He further undertakes to abide by any stringent conditions that may be

¹ (2002) 10 SCC 283

² 2022 SCC OnLine SC 1784

³ 2025 INSC 32

⁴ 2025 SCC OnLine SC 2362

⁵ 2025 SCC OnLine 2276



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imposed by the Court, including the execution of a substantial bond with solvent sureties, an undertaking not to alienate or encumber the vehicle, and an obligation to produce the vehicle whenever required by the Court or the Investigating Officer.

Gist of the Impugned Order:

8. The learned I Additional Special Judge for Trial of NDPS Act Cases, Madurai, by order dated 20.05.2025 in CrI.M.P.No.687 of 2025, rejected the application filed by the petitioner for interim custody of the Suzuki Gixxer motorcycle. From a reading of the order, it is evident that the dismissal is essentially premised on two considerations, first, that the vehicle in question has, according to the prosecution, been forwarded to the Drug Disposal Committee under the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, and secondly, that in such circumstances the Court is powerless to direct its release.

9. The impugned order accepts, at face value, the contention that once the vehicle is forwarded to the Drug Disposal Committee, the jurisdiction of the Court stands eclipsed and the vehicle cannot be handed over to the petitioner. An apprehension about possible non-



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production at a later stage is also noted, based on the prosecution objection. However, there is no discussion in the impugned order regarding the petitioner's status as an innocent owner, the impact of Sections 60(3) and 63 of the NDPS Act, the applicability of Sections 497 and 503 of the BNSS, or the binding precedent of the Hon'ble Supreme Court in ***Denash v. State of Tamil Nadu***⁶ and other decisions dealing with interim custody of vehicles.

Grounds of Revision:

10. The petitioner challenges the impugned order on several grounds. He contends, firstly, that the learned Special Judge has misapplied the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, by proceeding on the erroneous assumption that once a vehicle is forwarded to the Drug Disposal Committee, the criminal Court loses jurisdiction to consider an application for interim custody. Secondly, the petitioner submits that the impugned order fails to appreciate the scheme of Sections 60(3) and 63 of the NDPS Act, which make it abundantly clear that confiscation of a conveyance can only be ordered by a Court, after conducting an enquiry and affording an opportunity of hearing to the owner, and only upon proof of knowledge or connivance

⁶ 2025 SCC OnLine 2276



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on his part.

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11. Thirdly, the petitioner urges that the learned Special Judge has ignored binding precedents of the Hon'ble Supreme Court, particularly in ***Bishwajit Dey v. State of Assam***⁷ and ***Denash v. State of Tamil Nadu***⁸, where it has been clarified that Drug Disposal Committees and disposal rules cannot override judicial powers under the Code of Criminal Procedure / BNSS, and that Courts retain full jurisdiction to order interim custody of vehicles in NDPS cases. Fourthly, the petitioner contends that the impugned order fails to take into account the constitutional protection of property under Article 300-A of the Constitution of India and the practical reality that the vehicle, if kept idle and exposed in the police station, will suffer irreversible damage and loss of value.

12. Lastly, the petitioner submits that the learned Special Judge has failed to exercise his statutory jurisdiction under Sections 497 and 503 of the BNSS, which, by virtue of Sections 36-C and 51 of the NDPS Act, apply fully to proceedings under the NDPS Act, and which empower

7 2025 INSC 32

8 2025 SCC OnLine 2276

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the Court to direct interim return of property in order to prevent natural decay.

Submissions:

13. The learned counsel for the petitioner, Mr. P.T. Ramesh Raja, submitted that the petitioner is the undisputed registered owner of the Suzuki Gixxer motorcycle and that he has never been arrayed as an accused in Crime No.451 of 2023. He reiterated that there is no material to suggest that the petitioner had any knowledge of or connivance with the alleged use of the motorcycle for transporting ganja.

14. He drew attention to Section 60(3) of the NDPS Act to contend that an innocent owner who lacks knowledge or connivance and who has taken reasonable precautions cannot be visited with confiscation of his vehicle. He further submitted that, in the absence of any confiscation proceedings under Section 63, the Drug Disposal Committee cannot assume jurisdiction over the vehicle.



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15. The learned counsel placed strong reliance on the judgment of the Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**⁹, wherein it has been categorically held that the NDPS Disposal Rules, 2022, and the functioning of Drug Disposal Committees cannot override the judicial powers of the Special Courts under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS) and that the Special Courts continue to retain jurisdiction to grant interim custody.

16. He further relied upon the decisions in **Sunderbhai Ambalal Desai v. State of Gujarat**¹⁰ and **Sainaba v. State of Kerala**¹¹ to submit that the Courts have consistently deprecated the practice of allowing vehicles to remain in police custody for long periods, leading to decay and loss, and have directed that such vehicles should normally be released to the owner on suitable conditions, even in NDPS matters. He also referred to **Bishwajit Dey v. State of Assam**¹² and **Tarun Kumar Majhi v. State of West Bengal**¹³ to buttress his submission

⁹ 2025 SCC OnLine 2276

¹⁰ (2002) 10 SCC 283

¹¹ 2022 SCC OnLine SC 1784

¹² 2025 INSC 32

¹³ 2025 SCC OnLine SC 2362



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that an innocent owner must be protected and that vehicles should be released on *superdari* with appropriate safeguards.

17. Per contra, learned Additional Public Prosecutor, Mr. T. Senthil Kumar, submitted that the Suzuki Gixxer motorcycle was involved in the commission of the NDPS offence and that it was used for transporting ganja. He contended that the investigation is still pending against the surviving accused and that the vehicle may be required during the course of trial.

18. He further submitted that the vehicle has already been forwarded to the Drug Disposal Committee under the 2022 Rules and that, therefore, the Court should refrain from interfering with the process. He expressed an apprehension that, if the vehicle is released to the petitioner, it might not be produced when required, which could prejudice the prosecution and possible confiscation. On the strength of these submissions, learned Additional Public Prosecutor prayed for dismissal of the revision petition and for affirmation of the impugned order.



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

Point for determination:

20. In view of the rival submissions and the factual matrix noted above, the point that arises for determination is “Whether the learned I Additional Special Judge for Trial of NDPS Act Cases, Madurai, was justified in refusing to grant interim custody of the Suzuki Gixxer motorcycle bearing Registration No.TN-42-AL-5073 to the petitioner on the ground that the vehicle has been forwarded to the Drug Disposal Committee under the NDPS Disposal Rules, 2022, or whether, in the light of Sections 497 and 503 of the BNSS, Sections 36-C, 51, 52-A, 60(3) and 63 of the NDPS Act and the law laid down by the Hon’ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat***¹⁴, ***Sainaba v. State of Kerala***¹⁵, ***Bishwajit Dey v. State of Assam***¹⁶, ***Tarun Kumar Majhi v. State of West Bengal***¹⁷ and ***Denash v. State***

¹⁴ (2002) 10 SCC 283

¹⁵ 2022 SCC OnLine SC 1784

¹⁶ 2025 INSC 32

¹⁷ 2025 SCC OnLine SC 2362



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of Tamil Nadu¹⁸, the petitioner is entitled to interim release of the vehicle subject to appropriate conditions?”

Analysis:

21. At the outset, it requires to be noted that Sections 36-C and 51 of the NDPS Act expressly provide that the provisions of the Code of Criminal Procedure, in so far as they are not inconsistent with the NDPS Act, shall apply to proceedings before the Special Court. By necessary extension, after the coming into force of the BNSS, the corresponding provisions of the BNSS, namely Sections 497 and 503, continue to govern the powers of the criminal Courts regarding custody and delivery of seized property.

22. Sections 497 and 503 of the BNSS, which are pari materia with Sections 451 and 457 of the Code of Criminal Procedure, empower the criminal Court to pass such orders as it thinks fit for proper custody of any property pending the conclusion of trial and to deliver the property to the person claiming to be entitled to its possession, particularly in cases where the property is liable to speedy or natural

¹⁸ 2025 SCC OnLine 2276



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decay. These provisions are of general application and extend to all categories of criminal cases, including prosecutions under the NDPS Act, unless there is some inconsistency.

23. There is nothing in the NDPS Act which prohibits the Court from directing interim custody of vehicles seized in connection with NDPS offences. On the contrary, Sections 60(3) and 63 of the NDPS Act clearly envisage that the question of confiscation of a conveyance is to be determined by a Court, after an enquiry and after giving notice to the person claiming a right to the property. Confiscation thus is not an automatic or administrative consequence of seizure, but a judicial determination.

24. Section 52-A of the NDPS Act, read with the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, provides a special mechanism for preparation of an inventory, taking photographs and samples, and disposing of seized narcotic drugs, psychotropic substances and conveyances by or under the supervision of the Drug Disposal Committee. However, as held in ***Denash v. State of Tamil Nadu***¹⁹, these Rules are subordinate legislation and cannot override the

¹⁹ 2025 SCC OnLine 2276



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substantive provisions of the parent Act or divest the Courts of their jurisdiction under the Cr.P.C.,1973/BNSS.

25. The Hon'ble Supreme Court in **Denash v. State of Tamil Nadu**²⁰ has categorically held that Drug Disposal Committees cannot usurp or supplant the judicial functions of the Special Courts. The Court has emphasised that the NDPS Disposal Rules, 2022, do not operate to extinguish the jurisdiction of the Special Court under Sections 451 and 457 Cr.P.C. (now Sections 497 and 503 BNSS) to entertain applications for interim custody of vehicles seized in NDPS cases. Any disposal by the Drug Disposal Committee must be consistent with and subject to the final orders of the Court under Sections 60(3) and 63 of the NDPS Act.

26. Equally, the judgments of the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat**²¹ and **Sainaba v. State of Kerala**²² stress that vehicles and other valuable properties

should not be allowed to remain in police custody for long periods,
20 2025 SCC OnLine 2276

21 (2002) 10 SCC 283

22 2022 SCC OnLine SC 1784

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thereby deteriorating and losing their value, and that the Courts must ordinarily exercise their powers to release such properties to the rightful owner on bonds and conditions that secure their production when required.

27. In ***Bishwajit Dey v. State of Assam***²³, the Supreme Court examined different scenarios relating to seizure of contraband from conveyances and clearly recognised that, in cases where the registered owner is not implicated and there is no material to show his knowledge or connivance, the vehicle should normally be released to such owner on *superdari*, subject to appropriate safeguards. In ***Tarun Kumar Majhi v. State of West Bengal***²⁴ also, the Court reiterated that confiscation can only follow upon a judicial finding under Section 63 and that the rights of owners, particularly innocent owners, must be respected.

28. Coming to the facts of the present case, it is not in dispute that the Suzuki Gixxer motorcycle bearing Registration No.TN-42-AL-5073 stands in the name of the petitioner. It is equally undisputed

23 2025 INSC 32

24 2025 SCC OnLine SC 2362

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that the petitioner has not been arrayed as an accused in Crime No.451 of 2023. There is no allegation that he had knowledge or connivance in the alleged use of the motorcycle for transporting ganja. The only person alleged to have so used the vehicle is his son, A1 Saravanakumar, who has since died, and the case as against him has abated.

29. In such circumstances, the petitioner squarely falls within the category of an innocent owner contemplated under Section 60(3) of the NDPS Act. Unless the prosecution, in confiscation proceedings under Section 63 of the NDPS Act, is able to prove knowledge or connivance on his part and failure to take reasonable precautions, the vehicle cannot be legally confiscated. Until such proceedings are undertaken and concluded, the petitioner retains his proprietary rights in the vehicle.

30. The submission that, because the vehicle has been forwarded to the Drug Disposal Committee, the Court has lost jurisdiction to order interim custody, cannot be accepted in view of the clear law declared in ***Denash v. State of Tamil Nadu***²⁵. Forwarding to the Drug Disposal Committee is, at best, an administrative step under the 2022 Rules and does not translate into a final confiscation or into Government

²⁵ 2025 SCC OnLine 2276



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ownership. The Committee cannot dispose of the vehicle contrary to or in the absence of a final judicial decision under Section 63 of the NDPS Act.

31. The apprehension that the vehicle may not be produced in future, if released, is essentially speculative. Such apprehension can be effectively neutralised by insisting upon a substantial bond with two solvent sureties, by prohibiting sale, transfer or encumbrance of the vehicle and by imposing a condition that the vehicle shall be produced before the Court or Investigating Officer whenever required. It is also possible for the Court to direct that detailed photographs be taken and the engine and chassis numbers and other identifying features be recorded before release.

32. On the other hand, there is a real and immediate risk of irreparable harm if the motorcycle is allowed to remain idle in an open yard for an indefinite period. As repeatedly cautioned by the Hon'ble Supreme Court, such detention leads to rusting, mechanical deterioration and total loss of value, which is contrary to the object and spirit of Sections 497 and 503 BNSS. In the considered view of this



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Court, therefore, the learned I Additional Special Judge has erred in law in rejecting the petitioner's application for interim custody solely on the ground that the vehicle has been forwarded to the Drug Disposal Committee and might be required for confiscation. The impugned order fails to apply the correct legal principles and disregards the binding precedents referred to above. Interference in revision is, accordingly, warranted.

33. In the light of the foregoing analysis, this Criminal Revision Petition is allowed. The order dated 20.05.2025 passed in CrI.M.P.No. 687 of 2025 by the learned I Additional Special Court for Trial of NDPS Act Cases, Madurai, is set aside.

34. The respondent police and the trial Court are directed to release the Suzuki Gixxer motorcycle bearing Registration No.TN-42-AL-5073 to the petitioner on interim custody, subject to the following conditions:

- (a) the petitioner is directed to deposit a sum of **Rs.50,000/-**
(Rupees Twenty Five Thousand only) as non-refundable deposit for the said vehicle to the credit of the Manolaya,



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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 1st Additional Special Court for Trial of NDPS Act cases, Madurai;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned 1st Additional Special Court for Trial of 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;
- (f) the petitioner shall produce the vehicle before the learned Trial Court on 1st Monday of every English calendar month.



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35. It is made clear that the present order relates only to interim custody and shall not, in any manner, prejudice or influence the merits of the prosecution case in Crime No.451 of 2023 or the decision of the trial Court under Section 63 of the NDPS Act regarding confiscation or otherwise of the vehicle. The trial Court shall decide any such issue strictly on the basis of the evidence adduced and the contentions advanced, uninfluenced by the fact that interim custody has been granted to the petitioner, except to the limited extent of enforcing the bond or directing payment of the value of the vehicle, should confiscation ultimately be ordered.

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

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To

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- 1.The 1st Additional Special Court
for Trial of NDPS Act cases,
Madurai.
- 2.The Inspector of Police,
Uthamapalayam Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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