



Crl.RC(MD).No.1220 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.RC(MD).No.1220 of 2025

P.Rajakumar, S/o. Ponsamy,
Door No. 12A, R.C. Kovil Street, Sree Regunathapuram
Panakudi, Rathapuram Taluk
Tirunelveli District-627 133.

Revision Petitioner

Vs

The State of Tamil Nadu Rep. by The Sub Inspector of police
Panakudi Police Station, Tirunelveli District.
(Crime No. 648 of 2025)

Respondent

Prayer:- This Criminal Revision Case has been filed, under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), to call for the records relating to the order, dated 08.08.2025 passed in Crl.MP.No.674 of 2025, by the Judicial Magistrate Court, Valliyoor and to set aside the same and to order interim custody of the Vehicle, bearing Registration No.TN-74-BB-3029, seized by the Respondent Police on 01.07.2025 in Cr.No.648 of 2025, to the Revision Petitioner.

For Revision Petitioner : Mr.S.Krishna Kumar

For Respondent : Mr.A.S.Abul Kalam Azad,
Government Advocate (Criminal Side)



Crl.RC(MD).No.1220 of 2025

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Petitioner has filed the above petition, seeking release of the said Vehicle before the Trial Court and by the impugned order, the Trial Court had dismissed the said petition, refusing to release the said Vehicle. Hence, this Criminal Revision Case has been filed by the Revision Petitioner, seeking the relief, as stated above.

3. This Court, vide order dated, 03.09.2025, had passed the following order:-

“This Criminal Revision Case is directed against the order passed by the learned Judicial Magistrate, Valliyoor, dated 08.08.2025 passed in Crl.M.P.No. 674 of 2025 and to grant interim custody of the Vehicle bearing Registration No. TN-74-BB-3029 seized by the respondent on 01.07.2025 to the petitioner.

2.Heard Mr.S.Krishna Kumar, learned Counsel for the petitioner and Mr.M.Karunanithi, learned Government Advocate (Crl.side) accepts notice for the respondent. Thus, there is no need to issue notice on the respondent.

3.Mr.S.Krishna Kumar, learned Counsel for the petitioner submits that the vehicle was wrongly seized by the respondent without any authority and with a mala fide intention, the case has been set up by the respondent, even though no illegal act was done by the petitioner. It was further submitted that putting the vehicle in the open yard at the Police Station will solve no purpose and it will damage the vehicle.

4.The learned Counsel for the petitioner further submits that the respondent is now trying to auction the said vehicle. Thus, he prays this Court that an interim direction may be issued to the respondent that the respondent may not auction or change the nature of the vehicle in question, namely, TN-74-BB-3029, till the final disposal of this Criminal Revision Case.



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5.Mr.M.Karunanithi, learned Government Advocate (Crl.side), who has accepted notice for the respondent, prays four weeks time to file a counter affidavit on behalf of the respondent.

6.Accordingly, considering the request made by the learned Government Advocate (Crl.side) for the respondent, four weeks and no more time is granted to file a counter affidavit for the respondent and thereafter, one week time is granted to the learned Counsel for the petitioner to file a rejoinder affidavit to the counter affidavit filed by the respondent.

7.Put up this case 'for final hearing' on 30.10.2025 before the appropriate Bench. The respondent is restrained from auctioning or alienating the vehicle in question, namely, TN-74-BB-3029, till the date of next hearing."

4. In spite of sufficient opportunity given to the learned Government Advocate for the Respondent to file counter affidavit, by the order of this Court, dated 03.09.2025, no counter affidavit on behalf of the Respondent has been filed, till date. It appears that the Respondent is not interested to file any counter affidavit in this case.
5. This Court heard Mr.S.Krishna Kumar, the learned counsel for the Revision Petitioner and Mr.A.S.Abul Kalam Azad, the learned Government Advocate (Criminal Side) for the Respondent.
6. The learned counsel for the Revision Petitioner submits that the Revision Petitioner is the owner of the vehicle in question and that he and his brother are jointly running a brick chamber and that he had



Crl.RC(MD).No.1220 of 2025

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parked the vehicle only in his brick chamber, however, the Respondent Police came to his brick chamber, seized the vehicle in question in an arbitrary manner and had falsely lodged the complaint against him only on suspicion and against the provisions of law and the action of Respondent Police is arbitrary, illegal and against the principles of natural justice and he has not indulged in any such illegal activities by using the said vehicle.

7. The learned counsel for the Revision Petitioner further submits that the impugned order of the court below in rejecting the application filed by the Revision Petitioner, seeking return of the vehicle in question is not sustainable, as the Revision Petitioner has not committed any offence as alleged by the Respondent Police and since mere presence of the vehicle in question near the pond would not constitute the offence under Section 303(2) of the Bharatiya Nyaya Sanhita (BNS) and that since there is no evidence whatsoever to establish that the vehicle in question was used for illegal soil mining on the date of the alleged occurrence, the impugned order of the court below, refusing to return the vehicle, is not sustainable. Thus, the learned counsel seeks to quash the impugned order and to release the vehicle in question.

8. The learned counsel for the Revision Petitioner further submits that the



Crl.RC(MD).No.1220 of 2025

WEB COPY

Revision Petitioner is facing great jeopardy due to confiscation of the vehicle in question by the Respondent Police and his livelihood is depend upon the said vehicle and the said vehicle is the main source of earning and now his family has come at the verge of starvation. Thus, the action of the Respondent Police is clear cut violation of Articles 19, 20 and 21 of the Constitution of India.

9. The learned counsel for the Revision Petitioner further submits that from the date of seizure, the vehicle in question is standing at open yard in the Respondent Police Station and with the passage of time, ultimately it will become junk and after sometime, it is not useful for any purpose. The learned counsel has relied on the law laid down by the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai and C.M. Mudaliar Vs. State of Gujrat, AIR 2003 SC 638**.

10. The learned counsel for the Revision Petitioner has further drawn the attention of this Court, regarding the provisions of Sections 497 and 503 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which is quoted as under:-

"497. Order for custody and disposal of property pending trial in certain cases.-When any property is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if



the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.- For the purposes of this section," property" includes-

(a) property of any kind or document which is produced before the Court or which is in its custody,

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3)The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

(4)The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5)The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.

503. Procedure by police upon seizure of property.-(1) Whenever the seizure of property by any police officer is



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reported to a Magistrate under the provisions of this Code, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation."

11.The learned counsel for the Revision Petitioner further submits that the Revision Petitioner is ready to comply with all the conditions, which the Court will impose, while releasing the vehicle in question. Indisputably, the Revision Petitioner is the rightful owner of the vehicle in question and therefore, the vehicle in question be released in his favour and the impugned order be quashed by this Honourable Court in the interest of justice.

12.Per contra, the learned Government Advocate for the Respondent submits that the vehicle in question was being used for quarrying pond soil illegally at the time of alleged offence and the vehicle in question was correctly seized by the Respondent Police. Thus, the Trial Court has



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rightly passed the impugned order and there is no illegality in the impugned order and hence, no interference by this Court is required.

13.I have considered the submissions of the learned counsel for the parties and carefully gone through the relevant legal provisions and the judgements rendered by the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai (supra)** and the judgement passed by the High Court in various cases.

14.The Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai, AIR 2003 SC 638 (supra)** in para 17 and 21 has been pleased to held as under:-

"17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of application for return of such vehicles.

21. However these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers under Section 451 Cr.P.C. Are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This Object can also be achieved if there is proper supervision by the Registry of the concerned High Court in seeing that the rules framed by the High Court with regard to such articles are implemented properly."



15. In **Nand Vs. State of U.P., 1996 Law Suit (All) 423**, the Allahabad

High Court has observed that pendency of the confiscation proceedings under Section 72 of the U. P. Excise Act is not a bar for release of the vehicle which is required for the trial under Section 60 of the U.P. Excise Act. It has been clearly observed by that Court in para 7, which is being produced as under:-

"I think it is not proper to allow the truck to be damaged by remaining stationed at police station. Admittedly, the ownership of the truck is not disputed. The State of Uttar Pradesh does not claim its ownership. Therefore, I think it will be proper and in the larger interest of public as well as the revisionist that the revisionist gives a Bank guarantee of Rs. 2 lakhs before the C.J.M., Kanpur Dehat and files a bond that he shall be producing the truck as and when needed by the criminal courts or the District Magistrate, Kanpur Dehat, and he shall not make any changes nor any variation in the truck."

16. The Allahabad High Court further has held in the case of **Jai Prakash**

Vs. State of U.P., 1992 AWC 1744 that mere pendency of confiscation proceedings before the Collector is no bar to release the vehicle. In

Kamaljeet Singh Vs. State of U.P., 1986 U.P. Cri. Ruling 50 (Alld),

the same view was taken by the Allahabad High Court that pendency of confiscation proceedings shall not operate as bar against the release of vehicle seized under Section 60 of Excise Act.

17. In the opinion of this Court, the power under Section 497 of the



Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) is not properly and widely used by the Trial Court, while passing the impugned order. The power conferred under Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) be exercised by the trial court with judicious mind and without any unnecessary delay. So that the litigant may not suffer, merely keeping the article in the custody of the police in the open yard will not fulfil any purpose and ultimately it result the damage of the said property. The owner of the property be allowed to enjoy the fruits of the said property for the remaining period for which the property is being made as it is not in dispute that the Revision Petitioner is the owner of the seized Vehicle.

18.Further, in the opinion of this Court, the procedure as contemplated under Section 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) be also followed promptly, so that the concerned Court may take prompt decision for disposal of such properties and be released in favour of the entitled person of the said property, keeping the said property in the custody and keeping the same at the Police Station in the open yard will not solve any purpose and that gives a mental and financial torture to the owner of the said property which is also against the law and against the principles of natural justice.



19.As per the legal propositions mentioned above and keeping in view the fact that indisputably the Revision Petitioner is the registered owner of the seized vehicle and the ownership of the vehicle is not in dispute as neither the State or any other person has claimed their ownership over the vehicle, therefore, no useful purpose will be served in keeping the vehicle stationed at the police station in the open yard for a long period allowing it to be damaged with the passage of time.

20.In view of the above facts and circumstances of the case and in the light of the decisions of the Honourable Supreme Court and the High Court referred to above, the impugned order is not sustainable in the eye of law and hence, it requires interference by this court.

21.Accordingly, the present Criminal Revision Case is **allowed** and the impugned order, dated 08.08.2025 passed in Crl.MP.No.674 of 2025, by the Judicial Magistrate Court, Valliyoor is **set aside and reversed**.

22.The Judicial Magistrate Court, Valliyoor is directed to release the vehicle in question forthwith in favour of the Revision Petitioner. The Revision Petitioner is directed to give a bank guarantee of Rs.1,00,000/- (Rupees one lakh only) before the said Court and file a bond that he shall be producing the vehicle in question as and when needed by the concerned court and he shall not make any changes nor any variation in



Crl.RC(MD).No.1220 of 2025

the vehicle in question.

23. There is no order as to costs. Let the copy of this order be sent to the court concerned for its compliance and information by the Registry of this Court within one week from today.

30.10.2025

Index: Yes/No

Web: Yes/No

Speaking/Non Speaking

Neutral Citation

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Crl.RC(MD).No.1220 of 2025

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To

1. The Judicial Magistrate Court, Valliyoor
2. The The State of Tamil Nadu Rep. by The Sub Inspector of Police, Panakudi Police Station, Tirunelveli District.
3. The Additional Public Prosecutor, Madurai Bench of the Madras High Court, Madurai



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Crl.RC(MD).No.1220 of 2025

SHAMIM AHMED, J.

Srcm

Crl.RC(MD).No.1220 of 2025

30.10.2025