



Crl.O.P.No.5886 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.5886 of 2026

Madhusuthan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
E-3 Saravanampatty Police Station,
Coimbatore District.
(Crime No.568 of 2025)

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS to set aside the returned docket order in Crl.M.P.SR.No.961 of 2026 passed by the learned Additional District Judge/Presiding Officer, Special Court for EC Act Cases, Coimbatore dated 23.02.2026.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.Leronard Arul Joseph Selvam
Additional Public Prosecutor



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ORDER

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The petitioner, owner of Maruthi Suzuki Tour S Car bearing registration No.TN-38-DM-4359 filed a petition for return of property under Section 497 r/w. 503 of BNSS in Crime No.568 of 2025. The Trial Judge returned the petition for the reason “As per the guidelines of the Hon’ble High Court of Madras in ROC.No.10143/A/2025/F1 dated 18.06.2025 all the properties concerned in the cases under NDPS Act are to be handed over to Drug Disposal Committee for destruction and disposed as the case may be. Hence, the petition is returned”. Against which, the present petition filed.

2.The contention of the learned counsel for the petitioner is that on 26.09.2025 at about 5.58 hours the petitioner took a room and staying in PLA Ram Residency in Karur District, on the same day at about 13.00 hours the respondent took the petitioner from the Hotel, went to Saravanampatty and showed arrest in Crime No.568 of 2025 projecting that the petitioner was found near Sahara City Rountana, Saravanampatty in Coimbatore District as though the petitioner’s vehicle was intercepted by the respondent



and during search, found petitioner along with another accused/A2 jointly in possession of 2kgs of ganja. Both the petitioner and A2/Anandraj arrested.

At the time of arrest, the petitioner's car was parked in PLA Ram Residency in Karur. The GPS tracking of the above said car would prove the same. He would submit that the petitioner's vehicle is used as tourist car and his only income is hiring his vehicle and if the same is further detained, the petitioner would be deprived of his earning and livelihood. Further, the petitioner taken financial assistance for the car and he has to pay EMI. Further, the petitioner's family is dependent on the petitioner's income. He further submitted that the detention of the vehicle would make the vehicle unusable and rusted.

3.The learned counsel for the petitioner referred to the decision of the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in ***(2002) 10 SCC 283*** wherein the Apex Court had clearly given the guidelines directing the Courts to return the vehicles. He further referred to the order passed by this Court in ***Crl.O.P.No.33623 of 2025 (Mohamed Abdul Kader Seyed vs. State rep. by Inspector of Police, Ambattur Police Station, Prohibition Enforcement Wing (PEW),***



Ambattur) wherein this Court referred to the order of the Apex Court in the case of **Denash vs. State of Tamil Nadu** reported in **2025 SCC Online SC 2276** following another judgment of the Hon'ble Supreme Court in the case of **Bishwajit Dey vs. State of Assam** reported in **2025 INSC 32** and held that the Trial Court returning the return of proper petition citing the ROC not even numbering and hearing the parties and not considering the case on merits is in direct contravention to the Apex Court judgment and hence, to consider the petition on merits and in accordance with law. According to the petitioner, he is not involved in the case, his vehicle was parked in a far away place and the seizure shown is stage mannered, the petitioner has got proof to prove fabrication and unless an opportunity is given, he cannot substantiate his claim. Hence, prayed for appropriate orders.

4.The learned Additional Public Prosecutor submitted that on 26.09.2025 the respondent police received secret information that two persons in a car near Saravanampatty Sahara City rountana were selling ganja to college students. Based on this information, the respondent went to the spot and conduced vehicle check. At that time, Maruthi Suzuki Tour S car bearing registration No.TN-38-DM-4359 was intercepted and thereafter,



the petitioner and one Anandraj, both enquired. After following the procedure, vehicle was searched, the petitioner produced the ganja concealed under the car seat and the contraband was seized under seizure mahazar, both the petitioner and the said Anandraj arrested and case registered in Crime No.568 of 2025 for the offence under Section 8(c), 20(b)(ii)(B), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). The petitioner was caught red handed concealing the ganja in his car. The petitioner's claim that the car was parked elsewhere is not true. The Trial Court referred to ROC and returned the petition. Even in the judgment of the Hon'ble Supreme Court, four contingencies given in considering the return of property petition. The petitioner fall under first contingency. The petitioner being the owner of the car and from whom, the contraband seized and hence, the Trial Court not entertaining and returning the petition is proper. Hence, prayed for dismissal.

5.Considering the submissions made and on perusal of the materials, without going into the merits of the case and the contentions of the petitioner and the objections of the learned Additional Public Prosecutor and by not numbering and returning the petition filed for return of property citing



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ROC.No.10143-A/2025-F1 dated 18.06.2025 is not proper as this ROC pertains only with regard to destruction of contraband and the obligations and directions to the Judicial Magistrate or Metropolitan Magistrate to verify and sign Form-IV and Form-V and also verify Form-VI, forward samples to the concerned laboratory and nowhere it mentions about conveyance/vehicles. A scanned reproduction of ROC.No.10143-A/2025-F1 dated 18.06.2025 is as follows:



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R.O.C.No.10143-A/2025/F1



CIRCULAR

Sub: Letter received from the Deputy Director General of Narcotics Control Bureau – Requested for directions to disposing of vehicles seized under the NDPS Act in cases registered before January, 2023 – Placed before the Hon'ble the Chief Justice – As directed, placed before the Hon'ble NDPS Committee meeting held on 21.04.2025 – Resolution passed – Circular issued and particulars called for from the NDPS Courts – Further, letter received from the Additional Public Prosecutor, Madurai Bench regarding clarification in the Circulars issued by the High Court – Submitted – Circular issued.

- Ref:** 1. Letter in F.No.VII/3/3/MLR/CZU/SR/2024, dated 06.01.2025, received from the Deputy Director General of Narcotics Control Bureau, Ministry of Home Affairs, Govt. of India.
2. Minutes of the meeting of the Hon'ble NDPS Committee, dated 21.04.2025.
3. High Court's Circular in R.O.C.No.10143-A/2025/F1, dated 06.05.2025.
4. Minutes of the meeting of the Hon'ble NDPS Committee, dated 10.06.2025..

In continuation of the earlier Circular dated 06.05.2025, it is informed that the Principal District Judges in the State of Tamil Nadu and the Chief Judge, in the Union Territory of Puducherry, are instructed to direct the nominated Judicial Magistrates in each District, to verify and sign Form – IV (Inventory of seized material under Section 52-A of NDPS Act) and Form – V (Disposal of seized Narcotics Drugs under Section 53 of NDPS Act) and also when the accused is produced along with the seized contraband, to verify Form VI for forwarding the samples to the Forensic Laboratory.



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Further, it is brought to the notice of the High Court, Madras, that, with respect to the pending cases in the EC and NDPS Courts across the State, several applications had been filed seeking destruction of the seized contraband and the Sessions Judges had expressed difficulty in taking such applications on file. In this regard, it is clarified that the Sessions Judges are well within their powers to take the applications on file and take the assistance of Magistrates, who had been nominated for destruction of the contraband available in their property room. They must ensure that necessary samples had already been taken and had been forwarded to the Forensic Laboratory and report also received from the Forensic Laboratory. After ensuring that the said process had been completed, the Sessions Judges, wherever the contraband is pending, may move forward for destruction of the contraband by the Drug Disposal Committee and also ensure that the destruction is done in the presence of the nominated Judicial / Metropolitan Magistrate.

The outer timeline of 30.06.2025 is fixed for the destruction of the contraband in the Session Courts. The Prosecuting agencies are directed to file fresh applications even though earlier applications had been filed. Those applications should be filed within a period of one week from today and thereafter, the Presiding Officers of the Special Courts for NDPS Act cases in Chennai, Madurai, Coimbatore, Pudukkottai, Thanjavur, Salem, Villupuram and in Union Territory of Puducherry shall take them on file and proceed further after verifying that samples had been taken and forwarded to the Forensic Laboratory and that reports have been received from the Forensic Laboratory, take inventory and proceed for destruction by the Drug Disposal Committee in the presence of a Judicial / Metropolitan Magistrate.



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It is further directed that, whenever an accused is producing afresh for the first time before the Judicial Magistrate or Metropolitan Magistrate, they are under obligation not only to remand the accused but also to verify and sign Form – IV and Form – V and also verify Form – VI and forward the samples to the concerned Laboratory.

HIGH COURT, MADRAS.

Dated: 18.06.2025.

REGISTRAR GENERAL

To:

1. All the Principal District Judges/District Judges in the State of Tamil Nadu. }
2. The Principal Judge, City Civil Court, Chennai. }
3. The Chief Judge, Court of Small Causes, Chennai. }
4. The Chief Judge, Puducherry. }
5. The District Judge, Karaikal. }
6. The Presiding Officers of the Special Courts for Trial of cases under NDPS Act at Chennai, Madurai, Coimbatore, Pudukottai, Thanjavur, Salem, Villupuram and Union Territory of Puducherry. }
7. The Director, Tamil Nadu State Judicial Academy, R.A.Puram, Chennai-28. (with a request to communicate the Circular to Regional centres in Coimbatore and Madurai.) }
8. The Court Manager, High Court, Madras (with a request to communicate the Circular to all the Court Managers in Tamil Nadu and Puducherry through e-mode.) }
9. The Section Officer, "F" section, Madurai Bench of Madras High Court, Madurai. }
10. The Record Keepers, A.D. Records, High Court, Madras & Madurai Bench of Madras High Court, Madurai. }

With a direction to communicate this Circular to all the courts under your jurisdiction.

Copy To:-

1. Mr.K.S.Mohandoss, Public Prosecutor, Union Territory of Puducherry.
2. Mr.N.P.Kumar, Special Public Prosecutor for NCB, Chennai.
3. Mr.T.Senthil Kumar, Additional Public Prosecutor, Government of Tamil Nadu.



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4. Dr.P.K.Senthilkumari, IPS, Inspector General of Police (Crime).
5. Mr.P.Aravindhnan, IPS, Zonal Director, NCB.
6. Mr.A.Myilvaganan, Superintendent of Police (NIB) CID, Chennai.
7. Mr.T.G.Venkatesh, Deputy Director General (South), NCB.

6.The Madurai Bench of this Court in ***Crl.R.C.(MD).No.1021 of 2024 (Denash vs. State of Tamil Nadu)*** dismissed the return of property petition by order dated 20.12.2024 holding that vehicle seized under the provisions of NDPS Act was not amenable to relase on interim custody by invoking the provisions under Sections 451 and 452 of Cr.P.C. (sections 497 and 498 of BNSS) as the same was liable to confiscation under Section 63 of the NDPS Act. Following the ***Sainaba's*** case, the Apex Court in the case of ***Bishwajit Dey vs. State of Assam*** reported in ***(2025) 3 SCC 241***, held that criminal law has not to be applied in a vacuum but to the facts of each case and classified four contingencies, namely,

(i) Firstly, where the owner of the vehicle is the person from



whom the possession of contraband drugs/substance is recovered.

(ii) Secondly, where the contraband is recovered from the possession of the agent of the owner i.e. like driver or cleaner hired by the owner.

(iii) Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle.

(iv) Fourthly, where the contraband is seized / recovered from a third-party occupant (with or without consideration) of the vehicle without any allegation by the police that the contraband was stored and transported in the vehicle with the owner's knowledge and connivance.

7.The Apex Court further held that in the first two contingencies, the owner of the vehicle or his agent would necessarily be arrayed as an accused and in the third and fourth contingencies, the owner of the vehicle or his agent would not be arrayed as an accused but they are not precluded from filing and claiming return of property. The only condition imposed is that for the first two contingencies, vehicle may not be released on superdari till reverse burden of proof is discharged by the petitioner/owner. For the third



and fourth contingencies, when there is no allegation made in the charge sheet against the owner of the vehicle, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and he would pay the value of the vehicle as determined by the Court on the date of release, if the Court is finally of the opinion that the vehicle needs to be confiscated.

8.The Apex Court in the case of *Tarun Kumar Majhi vs. State of West Bengal* reported in *2025 SCC Online SC 2362* referred to the case of *Bishwajit Dey* for release in the interim of any seized vehicle which is further clarified and followed in the case of *Denash vs. State of Tamil Nadu* reported in *2025 SCC Online SC 2276* wherein the impugned order was passed by the Madurai Bench of this Court and the Apex Court referred to four contingencies and clarified that discussion should be taken and laying down a rigid formula is not proper as it will be open to the Trial Courts to take a different view if the facts of the case so warrants.

9.In Crl.O.P.No.33623 of 2025, this Court by order dated 11.12.2025



referring to the case of **Denash and Bishwajith Dey**, observed that not entertaining the return of property petition and returning the same even without numbering is not proper and petitions to be numbered, heard and decided on merits. Thus, citing ROC and returning the petition would not be proper.

10.In the case of **Denash**, the Apex Court taken a holistic reading of Sections 60(3) and 63 of NDPS Act with Sections 451 and 457 Cr.P.C. (Sections 497 and 503 of BNSS). It would be apposite to extract the relevant paragraphs, which is as follows:

21.Thus, a conjoint and holistic reading of Sections 60(3) and 63, makes it abundantly clear that the power to determine whether or not a seized conveyance is liable to confiscation vests in the Special Court constituted under the NDPS Act and not in any administrative or executive authority such as the Drug Disposal Committee. The statute stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty- bound to hear such claim before deciding the fate of the seized vehicle including confiscation.

22.The legislative scheme thus contemplates that confiscation, being a measure resulting in deprivation of



property, must conform to the basic tenets of natural justice and must be preceded with a prior hearing which would ensure that an innocent owner or a bona fide claimant, whose vehicle or container might have been misused without his knowledge or connivance, is not subjected to undue hardship and unjust deprivation of his property.

23. Let us take two examples:

(a) The vehicle owned by one 'X' is stolen and thereafter, the thief uses the said conveyance to transport narcotic or psychotropic drug. In such a situation, would it be justified in leaving the innocent owner to undergo the ordeal of moving the Drug Disposal Committee after waiting for the arrival of the chemical examiner's report, before the vehicle can be released?

(b) Where a bona fide transporter, assigns his transport vehicle to a driver and the said driver, in the process of carrying the consigned goods, collects some narcotic material on the way and is apprehended. In such a situation, would it be justified to leave the owner of transport vehicle to await the chemical examiner's report and then approach the Drug Disposal Committee for release of the vehicle?



25. This position has been recently clarified by this Court in *Tarun Kumar Majhi v. State of West Bengal*¹⁰, wherein it was observed as follows:

“It is settled law that the seized vehicles can be confiscated by the Trial Court only on conclusion of the trial when the accused is convicted or acquitted or discharged. Further, even where the Court is of the view that the vehicle is liable for confiscation, it must give an opportunity of hearing to the person who may claim any right to the seized vehicle before passing an order of confiscation. However, the seized vehicle is not liable to confiscation if the owner of the seized vehicle can prove that the vehicle was used by the accused person without the owner’s knowledge or connivance and that he had taken all reasonable precautions against such use of the seized vehicle by the accused person.”

(Emphasis Supplied)

26. The principle enunciated in the aforesaid decision makes it abundantly clear that confiscation or otherwise of a conveyance is to be determined finally, only upon conclusion of the trial, and until such adjudication, the ownership rights of the owner, who prima facie establishes that he is unconnected with the seized contraband, from claiming the seized vehicle cannot be extinguished. It further underscores that the power of confiscation is



coupled with a duty to observe procedural fairness and to ensure that no prejudice is caused to an innocent owner who had neither knowledge nor willfully participated or connived to commit the offence under the [NDPS Act](#).

29. Accordingly, we have no hesitation in holding that the Rules of 2022 cannot be interpreted as divesting the Special Courts of their jurisdiction to entertain an application for interim custody or release of a seized conveyance under [Sections 451](#) and [457](#) of CrPC [Sections 497 and 503 of BNSS]. The authority of the Special Court to pass appropriate orders for interim custody during the pendency of the trial, as well as to make final determination upon its conclusion, continues to operate independently of the disposal mechanism envisaged under the said Rules. Any interpretation to the contrary would lead to anomalous and unjust consequences by depriving a bona fide owner of his property without judicial scrutiny or an opportunity of hearing, an outcome wholly inconsistent with the statutory scheme of the [NDPS Act](#) and contrary to the fundamental principles of natural justice.

30. Hence, we are of the considered view that the interpretation given by the High Court, holding that pursuant to the promulgation of the Rules of 2022, all other forums, including the Special Court, are divested of the jurisdiction to decide the fate of a seized conveyance under the [NDPS Act](#) and that the aggrieved person must



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necessarily approach the Drug Disposal Committee, is unsustainable in the eyes of law.

11.Hence, the consistent view and directions given by the Apex Court is that the statutes stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty bound to hear such claim by deciding the fate of the seized vehicle including confiscation. In view of the above, the Trial Court returning the return of property petition is not proper and it would amount to violating Article 141 of Constitution of India. It is fundamental that no petition can be returned summarily without giving opportunity of hearing the petitioner.

12.Accordingly, the docket order passed by the Trial Court in Crl.M.P.SR.No.961 of 2026 dated 23.02.2026 is set aside. The petitioner to either represent the petition or file a fresh application which the Trial Court concerned to receive the same, hear the petitioner and the objections and dispose of the petition in accordance with law on the facts and circumstances of each case.



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WEB COPY 13. With the above directions, the Criminal Original Petition stands allowed.

12.03.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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Note: The Registry is directed to return the original petition to the learned counsel for the petitioner.



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To

1.The Inspector of Police,
E-3 Saravanampatty Police Station,
Coimbatore District.

2.The Additional District Judge/
Presiding Officer,
Special Court for EC Act Cases,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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