



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL RC No. 825 of 2026

V.Sureshkumar, S/o.Vellikannu

..Petitioner(s)

Vs

The Inspector of Police,
Vikravandi Police Station,
Crime No.57/2026

..Respondent(s)

Prayer: This Criminal Revision petition is filed under Section 438 read with 442 BNSS, to set aside the order dated passed by the learned District Munsif-cum-Judicial Magistrate, Vikravandi in Crl.M.P.No.329 of 2026 in Crime No.57 of 2026 dated 10.03.2026.

For Petitioner(s):

Mr.N.Desinghu

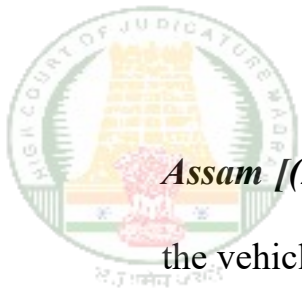
For Respondent :

Mr.R.Kishore Kumar
Government Advocate [Crl.side]

ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned District Munsif-cum-Judicial Magistrate, Vikravandi dated 10.03.2026 in Crl.M.P.No.329 of 2026.

2. The learned counsel appearing for the petitioner submits that by virtue of the judgment of the Hon'ble Supreme Court in *Bishwajit Dey Vs. State of*



Assam [(2025) 3 SCC 241], the petitioner is entitled for an interim custody of the vehicle.

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3. At this juncture, the learned Government Advocate (Crl.side) appearing for the respondent submits that the petitioner is arrayed as an accused. Consequently, the judgment referred to by the learned counsel for the petitioner in *Bishwajit's* case is not applicable. Hence, he prays for the dismissal of this Criminal Revision Petition.

4. The learned Magistrate dismissed the application on the ground that the confiscation proceedings have been initiated. Though the learned counsel for the petitioner submits that the judgment in *Bishwajit's* case is squarely applicable to the present case, this Court is of the view that, in *Bishwajit's* case, in paragraph 34 has clearly stated that, where the owner of the vehicle is arrayed as an accused, unless the reverse burden of proof is discharged by the accused/owner, the question of releasing the vehicle for interim custody does not arise. Therefore, this Court is of the view that as per the above judgment, the owner cum accused has to satisfy reverse burden.

5. For ready reference, paragraph Nos.33 and 34 of *Bishwajit's case* is extracted hereunder:

“33. Though seizure of drugs/substances from conveyances



can take place in a number of situations, yet broadly speaking there are four scenarios in which the drug or substance is seized from a conveyance. Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered. 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. Thirdly, where the vehicle has been stolen by the accused and contraband is seized/recovered from such stolen vehicle. 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. In the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused. In the third and fourth scenario, the owner of the vehicle and/or his agent would not be arrayed as an accused.

34. This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden of proof is discharged by the accused owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and /or his agent, 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/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated.”



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C.KUMARAPPAN, J.

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In view of the above, the ratio of the judgment is self-explanatory. Therefore, this Court is of the view that, there is no infirmity in dismissal of the application and hence, this Criminal Revision Petition is dismissed.

09.04.2026

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To

1. The Inspector of Police, Vikravandi Police Station,
2. The District Munsif-cum-Judicial Magistrate, Vikravandi.
3. The Public Prosecutor, High Court of Madras.

CRL.R.C No. 825 of 2026