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CRL OP No. 9197 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 9197 of 2026

Rajesh

..Petitioner(s)

Vs

The State rep.by,
Inspector of Police,
Kadaladi Police Station,
Tiruvannamalai District.
Cr.No.228 of 2024.

..Respondent(s)

To set aside the order passed by the learned Principal District and Sessions Judge, Tiruvannamalai in Cr.R.P.No.6 of 2025 dated 01.11.2025 as confirmed by the order of learned District Munsif cum Judicial Magistrate Court (FAC), Kalasapakkam in Crl.MP.No.1343 of 2024 dated 25.10.2024 and to grant interim custody of Yamaha-Cygnus Ray ZR (Yamaha Scooty) two-wheeler bearing Registration No.TN-47-BB-5616 to the petitioner.

For Petitioner(s): Mr.A.Sathishkumar

For Respondent(s): Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor

ORDER

The petitioner, who is arrayed as accused in Crime No.228 of 2024, for the offence under Sections 8(c) r/w. 20(b)(ii) (A) of NDPS Act filed a petition for return of property in Crl.MP.No.1343 of 2024. The District Munsif-cum-



Judicial Magistrate, Kalasapakkam by order dated 25.10.2024 dismissed the said petition. Challenging the same, the petitioner filed Cr.R.P.No.6 of 2025 and the Principal District and Sessions Judge, Tiruvannamalai by order dated 01.11.2025 dismissed the revision and confirmed the order passed by the Lower Court. Aggrieved by the same, the present petition has been filed.

2. The case of the prosecution is that on 22.06.2024 at about 00.30 hours, the respondent Police received information that near Parvathamalai, certain persons were selling Ganja. The respondent Police went to the said place and found two persons, namely, the petitioner and one Ajith, standing near a two wheeler bearing Registration No.TN-47-BB-5616 (Yamaha Scooty) and holding a white polythene cover. On seeing the police, they attempted to flee from the said place, but were apprehended. Upon enquiry and search, the polythene cover was found to contain two packets of ganja weighing 10 grams each. The accused were arrested and the vehicle was seized.

3. The contention of the petitioner is that even as per the prosecution, there is no clarity as to who was in possession of the polythene bag--whether it was the petitioner or the co-accused Ajith. Further, it is unclear whether the contraband was seized from the persons or from the vehicle. Thus, the seizure itself is doubtful.



4. It is further contended that there are no independent witnesses and the case is fabricated. The petitioner has no bad antecedents. In such circumstances, the Trial Court as well as the Sessions Court dismissing the return of property petition as though, the offence has already been established, is improper.

5. The petitioner further submitted that the vehicle is lying in an open yard exposed to the vagaries of weather and get rusted. The Supreme Court in the case of *Sunderbhai Ambalal Desai vs. State of Gujarat reported* in AIR 2003 SUPREME COURT 638, directed the vehicle to be returned subject to appropriate conditions.

6. The learned Additional Public Prosecutor opposed the contentions of the petitioner stating that the petitioner and the co-accused came in a two wheeler and both found taking a while polythene bag from the two wheeler and it contains ganja of 20 grams. He fairly submitted that no confiscation proceedings have been initiated so far. He also contended that petitioner's defence can be considered during trial.

7. Considering the above submissions and materials available on record, it is seen that the petitioner has no criminal antecedents and two 10 gms. pack of ganja was seized from the petitioner's two wheeler. The manner of seizure itself



is disputed. Further, the charge sheet has already been filed and taken on file in STC.No.713 of 2025 by the Judicial Magistrate, Kalasapakkam.

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8. In such circumstances, this Court is inclined to set aside the order dated 25.10.2024 in Crl.MP.No.1343 of 2024 and 01.11.2025 in Cr.R.P.No.6 of 2025 passed by both the Courts below. Accordingly, District Munsif cum Judicial Magistrate Court, Kalasapakkam is directed to return the vehicle to the petitioner on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with one surety for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate Court, Kalasapakkam.

(ii) Since the petitioner has purchased the vehicle from one Rajadurai and name transfer has not been effected till date. the petitioner shall produce self attested photostat copy of Registration Certificate stands in the name of Rajadurai, Form-29, Form-30, sale receipt and delivery note.

(iii) After receiving the two wheeler, the petitioner shall approach the concerned RTO and transfer the registration certificate to his name within two weeks and thereafter, produce the photostat copy of registration certificate before the District Munsif cum Judicial Magistrate Court, Kalasapakkam.



(iv) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over.

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(v) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent Police and by the Court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

9. With the above directions, this Criminal Original Petition is allowed.

15-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
PVS

To

1. The Principal District and Sessions Judge,
Tiruvannamalai
2. The District Munsif cum Judicial Magistrate Court,
Kalasapakkam
3. The Inspector of Police,
Kadaladi Police Station,
Tiruvannamalai District.
Cr.No.228 of 2024.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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