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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 2420 of 2026

CNR:{HCMA012454462026}

Ganpat
S/o Mangala Ram,
D.No.56-A, Kattery Chetty Thottam,
Samy Iyar New Street,
Coimbatore South,
Coimbatore.
Permanent Address,
Saragaro Ka Bas, Mandanas, Pali,
Rajastan-306421

..Petitioner(s)

Vs

The State Rep. by, The Inspector of Police
Variety Hall Road Police Station,
Coimbatore District.
Crime No.145 of 2026.

..Respondent(s)

CRL RC No. 2420 of 2026

To set aside the order passed by the learned Additional Distrit Judge/Presiding Officer,Special Court for EC Act Cases,Coimbatore in Crl.MP.No.2423 of 2026 dt.25.09.2026 and to grant interim custody to Four-Wheeler namely Mahindra Scorpio bearing Registration No.TN-38-AM-0045 to the Petitioner and thus render justice.

CRL RC No. 2420 of 2026

For Petitioner(s): Mr. M.N.Balakrishnan

For Respondent(s): Mr. M. Dinesh, Government Advocate (Criminal Side).

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1. This Criminal Revision Case is filed to set aside the order passed by the learned Addl. District Judge/presiding Officer, Special Court for EC Act Cases, Coimbatore in Crl.M.P.No.2423 of 2026 dated 25.09.2026 and to grant interim custody to Four-Wheeler namely Mahindra Scorpio bearing Regn. No. TN-38-AM-0045 to the petitioner.

2. The facts of the case are that on 03.07.2026, when the Respondent Police were on patrol duty , the respondent police found the petitioner/A1 along with A2 were in illegal possession of 3 Kilograms of Ganja and 755 Kilograms of Banned Tobacco Products. A case was registered in Cr.No.145 of 2026 under Section 8(c) r/w.20(b)(ii)(B) of NDPS Act and section 123 of B.N.S., 2023 and section 7(1) r/w.24(1) of COTPA Act, 2003. Hence, the Revision Petitioner had 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 heard Mr.M.N. Balakrishnan, the learned counsel for the Revision Petitioner and Mr.M.Dinesh, the learned Government Advocate (Criminal

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Side) for the Respondent.

4. The learned counsel for the Revision Petitioner submits that the Revision Petitioner is the owner of the vehicle in question and that the Vehicle in question was misused by its Driver and that the Revision Petitioner was not at all involved in the alleged offence and 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 that when the ownership of the vehicle in question is not in dispute, 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.

5. The learned counsel for the Revision Petitioner further submits that from the date of seizure, the vehicle in question is kept in the custody of the Trial Court in the open yard 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**.

6. 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

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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 reported to a

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> 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."

7. 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.

8. Per contra, the learned Government Advocate for the Respondent submits that the vehicle in question was involved in the offences under section 8(c) r/w.20(b)(ii)(B) of NDPS Act and section 123 of BNS, 2023 and section 7(1) r/w.24(1) of COTPA Act, 2003 and hence, the vehicle in question was correctly seized by the Respondent Police. Thus, the Trial Court has rightly passed the impugned order and there is no illegality in the impugned order and hence, no interference by this Court is required.

9. I have considered the submissions of the learned counsel for the parties and

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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.

10.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."

11.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

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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."

12. 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.

13.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 Trial Court 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

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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.

14.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 in the custody of the Trial Court 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.

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

16.In view of the above facts and circumstances of the case and in the light of

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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.

17. Accordingly, the present Criminal Revision Case is **allowed** and the impugned order, dated 25.09.2026, passed in Crl.MP.No.2423 of 2026, by the Addl. District Judge/Presiding Officer, Special Court for EC act cases, Coimbatore, is **set aside and reversed**.

18. The Addl. District Judge/Presiding Officer, Special Court for EC act cases, Coimbatore is directed to release the vehicle in question forthwith in favour of the Revision Petitioner, on the conditions that the Revision Petitioner shall give a bank guarantee of Rs.30,000/- (Rupees thirty thousand 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 the vehicle in question.

19. 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.

27.10.2026

Index: Yes/No
Speaking/Non-speaking order
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To

1. The Inspector of Police,
   Variety Hall Road Police Station,
   Coimbatore District.
2. The Addl. District Judge/Presiding Officer,
   Special Court for EC Act Cases, Coimbatore
3. The Public Prosecutor, Madras High Court, Madras

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SHAMIM AHMED J.

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CRL RC No. 2420 of 2026

27-10-2026

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