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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 2530 of 2026

CNR: {HCMA012514532026}

Vanaja, W/o Jayaraman,
55, Murugan Koil Street, Nanamedu
Thavalakuppam, Puranankuppam,
Puducherry.

Case QR

..Petitioner(s)

Vs

State Rep.by, The Station House Officer
Thavalakuppam Police Station, Puducherry.
Crime No. 170/2025

..Respondent(s)

Prayer:- This Criminal Revision Case is filed to set aside the order, dated 25.02.2026, made in Crl.MP.No.328 of 2026, by the Special Judge under NDPS Act, III Additional Sessions Judge, Puducherry.

For Petitioner(s): Mr.J. Zeakumar for M/s. Achari And Antoni Associates

For Respondent(s): Mr.A.Alexander, GA (Pondicherry)

ORDER

1. This Criminal Revision Case is filed to set aside the order, dated 25.02.2026, made in Crl.MP.No.328 of 2026, by the Special Judge under NDPS Act, III Additional Sessions Judge, Puducherry.

2. The facts of the case are that the Revision Petitioner is the owner of the MOBILE PHONE, XIAOMI 11T Pro (256 GB) Magic Mobile Phone (IMEI No.863290051581174), which was seized by the Respondent Police, on

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27.11.2025, in connection with Cr.No.170 of 2025 for the offence under Sections 8(c) read with 20(b)(ii)(B) of the NDPS Act and Section 77 of the Juvenile Justice Act, 2015 (Care and Protection of Children). Hence, the Revision Petitioner had filed the above petition, seeking release of the said property, before the Trial Court. By the impugned order, the Trial Court had dismissed the said petition, refusing to release the said property. Hence, this Criminal Revision Case has been filed by the Revision Petitioner, seeking the relief, as stated above.

3. This Court heard Mr.J. Zeakumar for M/s. Achari And Antoni Associates, the learned counsel for the Revision Petitioner and Mr.A.Alexander, Government Advocate (Pondicherry) for the Respondent.

4. The learned counsel for the Revision Petitioner submits that the Revision Petitioner is the owner of the Mobile in question, which was seized by the Respondent Police, from her son and that the Revision Petitioner was not involved in the alleged offence and that when the ownership of the said property in question is not in dispute, the impugned order of the court below, refusing to return the same, is not sustainable. Thus, the learned counsel seeks to quash the impugned order and to release the said property.

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

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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 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).

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(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 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 Mobile in question. Indisputably, the Revision Petitioner is the rightful owner of the said property and therefore, the same 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 property in question was involved in the offences under Sections

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8(c) read with 20(b)(ii)(B) of the NDPS Act and Section 77 of the Juvenile Justice Act, 2015 (Care and Protection of Children) and hence, the same 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 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

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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."

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 will not fulfil any purpose and

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ultimately it result the damage of the said property. The owner of the said 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 Mobile.

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 property and be released in favour of the entitled person of the said property, and keeping the same in the custody of the Trial Court 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 owner of the seized Mobile in question and that the ownership of the said properties is not in dispute as neither the State or any other person has claimed their ownership over the said property, no useful purpose will be served in keeping the same in the custody of the Trial Court 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 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

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requires interference by this court.

17.Accordingly, the present Criminal Revision Case is **allowed** and the impugned order, dated 25.02.2026, made in Crl.MP.No.328 of 2026, by the Special Judge under the NDPS Act, III Additional Sessions Judge, Puducherry, is **set aside and reversed**.

18.The Special Judge under the NDPS Act, III Additional Sessions Judge, Puducherry, is directed to release the Mobile in question forthwith in favour of the Revision Petitioner, on the conditions that the Revision Petitioner shall give a bank guarantee of Rs.2,000/- (Rupees two thousand only) before the said Court and file a bond that she shall be producing the said property, as and when needed by the concerned court and she shall not make any changes nor any variation in the said property. There is no order as to costs.

19.Let a 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.

25-11-2026

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

SRCM

To

1. Special Judge under NDPS Act, III Additional Sessions Judge, Puducherry.
2. The Station House Officer Thavalakuppam Police Station, Puducherry.

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SHAMIM AHMED, J.

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