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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-11-2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL RC No. 2518 of 2026

CNR:{HCMA012654402026}

Saravanan

Case QR

..Petitioner(s)

Vs

The State Rep by Inspector of Police
Prohibition Enforcement Wing,
Kottakuppam Police Station,
Viluppuram District.
Crime No.198 of 2026.

..Respondent(s)

PRAYER:To Set aside the order passed in Crl.M.P.no.754 of 2026 dated 28.08.2026 on the file of the Judicial Magistrate, Vanur, Consequently directing the respondents to release the petitioner's vehicle i.e bearing PY-05-M-6581, KTM 250 Duke Two Wheeler Black Colour.

For Petitioner(s): Mr. M.Kalaiyarasan

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

ORDER

This Criminal Revision Case is filed challenging the order dated 28.08.2026 passed in Crl.M.P.No.754 of 2026 by the learned Judicial Magistrate, Vanur, dismissing the petition filed by the Revision Petitioner seeking interim custody of his vehicle, namely KTM 250 Duke Two-Wheeler

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bearing Registration No.PY-05-M-6581, Black Colour.

2. The facts of the case are that on 28.06.2026, at about 11.30 p.m., during routine surveillance near Anichankuppam Check Post on the Pondicherry-Chennai Highway, the Respondent Police intercepted a two-wheeler bearing Registration No.PY-05-M-6581 and allegedly found 100 bottles of Bombay Brandy, each containing 90 ml, and 60 bottles of Jeffries Brandy, each containing 90 ml, in the possession of the person riding the vehicle. Consequently, the vehicle was seized and a case was registered in Crime No.198 of 2026 for the offences under Sections 4(1)(C), 4(1)(A) and 14(A) of the Tamil Nadu Prohibition (Amendment) Act, 2024.

3. The Revision Petitioner claims to be the registered owner of the vehicle in question. According to him, his son had taken the vehicle on the date of occurrence, informing him that he was going for painting work at Puducherry. The Revision Petitioner claims that he had no knowledge of the alleged transportation of liquor in the vehicle and that he is not arrayed as an accused in the case. He further states that the vehicle was purchased with the assistance of HDFC Bank Limited and that he has been regularly paying the monthly instalments. Since the vehicle was kept in police custody, he filed the petition before the Court below seeking its interim custody. However, the said petition

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was dismissed on the ground that confiscation proceedings had already been initiated. Aggrieved by the same, the present Criminal Revision Case has been filed.

4. This Court heard the learned counsel for the Revision Petitioner and the learned Government Advocate (Criminal Side) appearing for the Respondent and perused the materials available on record.

5. The learned counsel for the Revision Petitioner submits that the Revision Petitioner is the lawful owner of the vehicle in question and that he has not been implicated as an accused in the criminal case. He further submits that the vehicle was taken by his son without the Revision Petitioner's knowledge of the alleged transportation of liquor. The learned counsel contends that the Court below has erroneously dismissed the application merely on the ground that confiscation proceedings have been initiated, without considering the ownership of the vehicle and the hardship caused to the Revision Petitioner.

6. The learned counsel further submits that the vehicle is lying unused in the custody of the Respondent Police and is exposed to sunlight, rain and other climatic conditions, which would result in its deterioration and depreciation in value. He also submits that the Revision Petitioner is financially dependent

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upon the vehicle for his day-to-day family requirements and is regularly paying the loan instalments to HDFC Bank Limited. The original Registration Certificate is stated to be in the custody of the financier.

7. The learned counsel for the Revision Petitioner places reliance upon the judgment of this Court in *Sakthidevi v. State*, in Crl.R.C.No.501 of 2011, dated 07.04.2011, wherein this Court, relying upon the judgment in *David v. Sakthivel, Inspector of Police*, reported in 2010 (1) MLJ (Crl.) 929, has held that mere pendency of confiscation proceedings would not, by itself, constitute an absolute bar for considering an application seeking interim custody of a seized vehicle. He also relies upon the judgment of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat*, reported in (2002) 10 SCC 283.

8. Per contra, the learned Government Advocate (Criminal Side) submits that the vehicle was seized in connection with the prohibition offence and that confiscation proceedings have already been initiated under Section 14(A) of the Tamil Nadu Prohibition Act, 1937. He further submits that a confiscation notice dated 10.08.2026 was issued to the Revision Petitioner by the Superintendent of Police and Chairman, Vehicle Disposal Committee (Prohibition), Villupuram District, in Roc.No.141/Vu.Ka.Ka/Mavi/Vizhu/2026. Therefore, the learned Government Advocate submits that the Court below has rightly dismissed the

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application and seeks dismissal of the present Revision Case.

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.

1. 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."

2. 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

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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."

3. 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.

4. 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.

5. 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.

6. 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.

7. 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 requires interference by this court.

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8. Accordingly, the present Criminal Revision Case is **allowed** and the impugned order dated, 28.08.2026, passed in Crl.MP.No.754 of 2026 , by the learned Judicial Magistrate, Vanur, is **set aside and reversed**.

9. The learned Judicial Magistrate, Vanur 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.20,000/- (Rupees twenty 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.

10. 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.

11-11-2026

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To

The Inspector of Police
Prohibition Enforcement Wing,
Kottakuppam Police Station,
Viluppuram District.

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SHAMIM AHMED J.

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