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Crl. O.P. No.35272 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

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THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

Crl. O.P. No.35272 of 2025

R.Sakthivel

..Petitioner

Vs

State represented by
The Inspector of Police,
K.V.Kuppam Police Station,
Cr.No.280/2024.

..Respondent

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita to set aside the docket order passed by the learned Judge in C.M.P.SR.No.2385 of 2025 in CP.No.187 of 2024 in Cr.No.280/2024 dated 04.11.2025 on the file of the respondent Police.

For Petitioner : Mr.Mohamed Abbas

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)



ORDER

This Criminal Original Petition has been filed to set aside the docket order passed by the learned Judge in C.M.P.SR.No.2385 of 2025 in CP.No.187 of 2024 in Cr.No.280/2024 dated 04.11.2025 on the file of the respondent Police.

2. When the matter was taken up hearing, learned counsel for the petitioner submitted that the issue involved in the present petition is squarely covered by a decision rendered by the Hon'ble Supreme Court in the case of *Denash vs State of Tamil Nadu*, reported in 2025 SCC On Line SC 2276 and hence, on the same line, order may be passed in this petition. The Hon'ble Supreme Court in the aforesaid case, has held as follows:

“33. The situation at hand may be examined with reference to the principles enunciated by this Court in paragraphs 29 and 30 of [Bishwajit Dey](#) (supra), wherein four scenarios were delineated concerning the seizure of contraband from a conveyance, along with the general approach to be adopted by Courts while considering the question of interim release of such conveyances. Paragraphs 29 and 30 of Crl. Appeal @SLP (Crl.) No(s).8698 of 2025 [Bishwajit Dey](#) (supra), are extracted hereinbelow for ready reference: -

“29. 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 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.

30. 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 Crl. Appeal @SLP (Crl.) No(s).8698 of 2025 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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31. This Court clarifies that the aforesaid discussion should not be taken as laying down a rigid formula as it will be open to the trial Courts to take a different view, if the facts of the case so warrant.” (Emphasis Supplied)

34. Although, on a superficial reading, the present case might appear to fall within the second scenario delineated in *Bishwajit Dey* (supra), where contraband is recovered from the owner’s agent (driver) who is arrayed as an accused, however, the application of criminal law cannot be reduced to a rigid or mechanical formula. Each case must be examined in light of its peculiar facts and circumstances. In the present matter, a holistic consideration of the record reveals that the facts do not align strictly with the said category for the following reasons: -

i- Firstly, the appellant is the lawful owner with valid documents, and the vehicle was commercially engaged in transporting a valuable consignment of 29,400 MT of iron sheets. It is highly improbable to believe that he would risk both the costly vehicle and the high value consigned goods and his business goodwill by knowingly allowing narcotics to be transported along with the cargo.

ii- Secondly, the contraband, i.e., 6 kilograms of Ganja was recovered from the four charge sheeted accused persons.

iii- Thirdly, the appellant was not arraigned as an accused and the chargesheet contains no material suggesting that the appellant had knowledge of or connived in the offence. iv- It can thus, safely be presumed that the said contraband must have been procured by the drivers and/or the khalasis without the knowledge or connivance of the appellant.

35. In view of the above, while the present case may technically correspond to the second scenario as enumerated in paragraph 29 of *Bishwajit Dey* Crl. Appeal @SLP (Crl.) No(s).8698 of 2025 (supra), the peculiar factual matrix warrants a more pragmatic approach. It would, therefore, be expedient in the interest of justice



to grant interim custody of the vehicle to the appellant, as the overall circumstances clearly indicate his bonafides and absence of any involvement in the drugs being carried in the vehicle.

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36. In wake of the discussion made hereinabove, the appeal deserves to succeed. The impugned judgment dated 20th December, 2024 passed by the High Court is accordingly set aside. The vehicle bearing Registration No. TN 52 Q 0315 shall be released on supurdagi to the appellant on such terms and conditions, which the Special Court may impose.

37. The appeal is allowed accordingly.”

4. Following the above order passed by the Hon'ble Supreme Court, which squarely covers the issue involved in the present petition, the impugned docket order in C.M.P.Sr.No.2385 of 2025 in C.P.No.187 of 2024, in Cr.No.280 of 2024 dated 04.11.2025 is set aside. This Criminal Original Petition is allowed.

08-01-2026

Neutral Citation: Yes/No
MRN

To

1.The Inspector of Police,
K.V.Kuppam Police Station,
Cr.No.280/2024.

2.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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