



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

WEB COPY

**CORAM
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

CRL RC No. 2877 of 2025

A.Kailangiri
S/o. P. Alagar

..Petitioner(s)

Vs

The State rep by
The Inspector of Police,
PEW Gummidipoondi Police Station,
Thiruvallur District.

..Respondent(s)

PRAYER

Criminal Revision Case filed under Sec.438 of B.N.S.S., 2023, to set aside the order of dismissal passed by the learned Principal Special Judge under the NDPS Act at Chennai vide order dated 10.12.2025 in CrI.M.P.No.7310 of 2025 in Crime No.116 of 2025 on the file of the Respondent, and direct the respondent to return of Lorry Goods Carrier, Ashok Leyland Ltd. Bearing Reg No.TN-54-AB-7791 with goods mentioned in E-Way Bill No.831582486496 dated 24.09.2025 and E Way Bill No.841582647249, dated 24.09.2025, therein to the petitioner.

For Petitioner(s): Mr.M.Soundar Vijay Arulram

For Respondent(s): Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER

The petitioner aggrieved by the dismissal of the petition filed for return of lorry bearing Regn. No. TN-54 AB-7719, which was seized during the course of



investigation in Crime No. 16 of 2025 registered for the offence under Sec.8(c) read with 20(b), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act”), has preferred this Revision.

2. The petitioner is not an accused in the F.I.R. The gist of allegation is that the petitioner's driver had transported 12 kgs. of ganja in the petitioner's vehicle from Orissa to Trichy, which was intercepted by the respondent police near Gummidipoondi. During the course of investigation, the vehicle was seized. The petitioner sought for return of vehicle and the said petition was dismissed by the learned judge on 10.12.2025 on the ground that if the vehicle is released, the accused will commit similar offences and that under Sec.52A of NDPS Act, the vehicle has to be disposed of by the Drugs Disposal Committee.

3. The learned counsel for petitioner would submit that the petitioner is not an accused; that the vehicle is kept in open place from the date of seizure i.e. on 24.09.2025 and the value of the vehicle will be diminished if it is not returned to the petitioner; that the petitioner is ready to comply with any stringent condition that this Court may impose; and that hence, interim custody of the vehicle may be handed over to him.



4. The learned Government Advocate, per contra, would submit that the vehicle is involved in the commission of the offence under the NDPS Act; and that if the vehicle is released, similar offences would be committed. However, the learned Government Advocate fairly submitted that the petitioner is not an accused.

5. The Hon'ble Supreme Court of India in a recent judgment of Division Bench reported in **2025 SCC Online 2276** in the case of **Denash vs. State of Tamil Nadu**, had held as follows :-

“21. Thus, a conjoint and holistic reading of Sections 60(3) and 63, makes it abundantly clear that the power to determine whether or not a seized conveyance is liable to confiscation vests in the Special Court constituted under the NDPS Act and not in any administrative or executive authority such as the Drug Disposal Committee. The statute stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty bound to hear such claim before deciding the fate of the seized vehicle including confiscation.

.....

26. The principle enunciated in the aforesaid decision makes it abundantly clear that confiscation or otherwise of a conveyance is to be determined finally, only upon conclusion of the trial, and until such adjudication, the ownership rights of the owner, who prima facie claiming the seized vehicle cannot be extinguished. It further underscores that the power of confiscation is coupled with a duty to observe procedural fairness and to ensure that no prejudice is caused



to an innocent owner who had neither knowledge nor willfully participated or connived to commit the offence under the NDPS Act.

*27. On the contrary, the Rules of 2022 restrict the mode of disposal of a seized conveyance to “tender or auction”, as may be determined by the Drug Disposal Committee. However, this restrictive procedural framework must necessarily be read in harmony with the parent statute. The Rules, being subordinate legislation, cannot override or curtail the substantive rights and procedural safeguards envisaged under the parent legislation that is the NDPS Act. In **Bishwajit Dey** (supra), this Court observed that the provisions of the NDPS Act do not bar the concerned Court from exercising its discretion, to release the vehicle in interim custody. While the Act provides for confiscation in appropriate cases, it does not preclude the Court from granting interim release of the vehicle where the circumstances so warrant. The exercise of such judicial discretion is to be guided by the facts and circumstances of each case and should be undertaken in a manner that safeguards the rights of a bona fide owner at the same time balancing the need for detention of the vehicle/conveyance in appropriate cases.*

28. Moreover, Sections 36-C and 51 of the NDPS Act expressly make the provisions of the CrPC/BNSS applicable to proceedings before the Special Court, insofar as they are not inconsistent with the provisions of the NDPS Act. Consequently, the powers under Sections 451 and 457 of Cr.P.C. (Sections 497 and 503 of BNSS) pertaining to disposal of property pending trial, would certainly apply to proceedings before the Special Court. In the absence of an express bar under the NDPS Act, the mere fact that a vehicle may be liable to confiscation under Section 60 cannot, by itself, operate to deny interim custody to a bona fide owner.



WEB COPY



29. Accordingly, we have no hesitation in holding that the Rules of 2022 cannot be interpreted as divesting the Special Courts of their jurisdiction to entertain an application for interim custody or release of a seized conveyance under Sections 451 and 457 of Cr.P.C. (Sections 497 and 503 of BNSS). The authority of the Special Court to pass appropriate orders for interim custody during the pendency of the trial, as well as to make final determination upon its conclusion, continues to operate independently of the disposal mechanism envisaged under the said Rules. Any interpretation to the contrary would lead to anomalous and unjust consequences by depriving a bona fide owner of his property without judicial scrutiny or an opportunity of hearing, an outcome wholly inconsistent with the statutory scheme of the NDPS Act and contrary to the fundamental principles of natural justice.

30. Hence, we are of the considered view that the interpretation given by the High Court, holding that pursuant to the promulgation of the Rules of 2022, all other forums, including the Special Court, are divested of the jurisdiction to decide the fate of a seized conveyance under the NDPS Act and that the aggrieved person must necessarily approach the Drug Disposal Committee is unsustainable in the eyes of law.”

5. Admittedly, the petitioner is not an accused. He is the owner of the vehicle. The vehicle is lying idle at the Police Station. Considering the above facts and in view of the aforesaid observation of the Hon'ble Supreme Court, this Court is inclined to set aside the impugned order dated 10.12.2025 in Crl.M.P.No. 7210 of 2025 in Crime No.116 of 2025. In view of the same, the



interim custody of the vehicle viz., Lorry Goods Carrier, Ashok Leyland Ltd., bearing Registration No.TN-54-AB-7791 is directed to be handed over to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the learned Principal Special Judge under the NDPS Act at Chennai;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned Principal Sessions Judge under the NDPS Act, Chennai, shall peruse the RC book and other records, retain a xerox copy of the same and return the original RC book to the petitioner;

(iii) The petitioner shall not alter or alienate the vehicle in any manner;

(iv) The petitioner shall also give an undertaking that he will produce the vehicle as and when required by the respondent and by the court below.

(v) The return of property would be subject to the result of the confiscation proceedings, if any initiated by the respondent in future.

08-01-2026

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



To

WEB COPY

1. The learned Principal Special Judge under the NDPS Act, Chennai
2. The Inspector of Police, PEW, Gummidipoondi Police Station, Thiruvallur District.
3. The Public Prosecutor, High Court, Madras.



WEB COPY

CRL RC No. 2877 of 2



SUNDER MOHAN J.

RPP

CRL RC No. 2877 of 2025

08-01-2026