



Crl.R.C.(MD).No.320 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.02.2026

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Crl.R.C.(MD).No.320 of 2026

Thiruvanantha Perumal

... Petitioner

Vs.

The State of Tamil Nadu rep. by,
The Inspector of Police,
Jeyamangalam Police Station,
Theni District.
(Crime No.40/2025)

... Respondent

Prayer : Criminal Revision Petition filed under Section 438 and 442 of BNSS, 2023, to call for the records from the learned Judicial Magistrate Court, Periyakulam in Crl.M.P.No.74 of 2026 dated 03.02.2026 and set aside the same as illegal and grant custody of the Compressor-Atlas Capco & TATA Hitachi in Reference No.SP-22, 70314 to the petitioner.

For Petitioner : Mr.M.Solaisamy

For Respondent : Mr.Vaikkam Karunanithi

Government Advocate (Crl. Side)



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ORDER

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Heard Mr.M.Solaisamy, learned counsel for revision petitioner and Mr.Vaikkam Karunanithi, learned Government Advocate (Crl. Side) for respondent.

2. The present Criminal Revision Case has been filed to set aside the order of Judicial Magistrate Court, Periyakulam dated 03.02.2026 in Crl.M.P.No.74 of 2026, whereby the petition under Section 497 and 503 of BNSS for interim custody of vehicle viz., Compressor-Atlas Capco & TATA Hitachi in Reference No.SP-22, 70314, was rejected on the premise that the petitioner was involved in theft of mineral resources; that if the vehicle is handed over to petitioner, he may involve in similar offences in future and that confiscation proceedings had already been initiated and the same is pending before Principal District Court.

3. Learned counsel for petitioner would further submit that petitioner is the owner of the said vehicle and he would abide by any conditions that may be imposed by this Court. In support thereof, he produced the copy of tax invoice of said vehicle.



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4. This is the second round of revision filed before this Court. Earlier, petitioner filed a Criminal Revision Case in Crl.R.C.(MD).No.631 of 2025 challenging the order passed in Cr.M.P.No.849 of 2025 dated 29.04.2025 by Judicial Magistrate, Periyakulam, Theni District. This Court vide order dated 10.06.2025 dismissed the Criminal Revision Case on finding that confiscation proceedings had been initiated and pending before the Sessions Judge, Periyakulam in Crl.M.P.No.972 of 2025.

5. It is now submitted by learned counsel for petitioner that subsequent to the above orders of this Court, confiscation proceedings have been closed by the Principal Sessions Judge, Theni vide order dated 13.06.2025 on the premise that no adjudication can be made inasmuch as the scope of expression “Court” employed in Section 21(4A) of Mines and Minerals (Development and Regulation) Act, has been referred to Larger Bench and the same is pending consideration. Relevant portion is extracted hereunder:

“4. The Hon'ble High Court, Madras in Gowri -Vs- State reported on 03.04.2024 was pleased to refer the matter to larger Bench with respect to the term Court provided under section 21(4A) would relate to Special Court or Magistrate Court to the Court which would be vested with jurisdiction to deal with and pass orders for disposal of vehicle seized under section 21 (4) and liable



for confiscation under section 21 (4A) of MMDR Act and whether an order of disposal as provided under section 21 (4A) in respect of a vehicle which is seized under section 21(4) and is liable for confiscation under section 21 (4A) would also include an order for grant of interim custody of vehicle seized under section 21 (4), so as to make Section 451 Cr.P.C., applicable and to seek interim custody of the vehicle when the mandate under section 21 (4A) is only for the purpose of confiscation of the vehicle and not otherwise. In view of the above matter this court finds that, the matter has not been settled yet with respect to the powers conferred on the Special Court for confiscation of the vehicle involved in the Act of MMDR and whether the court which is entitled to take cognizance of the case is whether the Special Court or the Jurisdictional Magistrate has been seized off by the larger bench. Thereby, no adjudication can be made in the confiscation proceedings and thereby the petition is closed for the present with liberty to the petitioner to proceed further with the matter after a decision being arrived in the larger bench to the Hon'ble High Court, Madras.

In the result, this confiscation petition is closed.”

6. It is thus evident that confiscation proceedings, which was initiated, has now been closed. Even assuming that confiscation proceedings have been initiated and pending, that may not be an absolute bar for considering a petition



requesting/praying for release of custody of vehicle/property of the vehicle.

When this was pointed out, Mr.Vaikkam Karunanithi, learned Government Advocate would submit that in case confiscation proceedings are restored and the vehicle is directed to be confiscated, petitioner shall undertake to surrender the vehicle, which was agreed to by learned counsel for petitioner. Learned Government Advocate would also submit that the vehicle may be released subject to conditions.

7. The Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai vs State of Gujarat**, reported in **AIR 2003 SC 638**, 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."



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8. It may also be relevant to note that mere pendency of confiscation proceedings before the Collector is no bar to release the vehicle¹. 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 Act².

9. Keeping in view the law laid down by the Supreme Court and the documents/facts, which would *prima facie* show that revision petitioner is the owner of seized vehicle, this Court takes judicial notice that if vehicle in the present case is allowed to be kept in custody and in open yard, it will be exposed to vagaries of weather, resulting in diminishing its value and may in course of time be reduced to scrap.

10. In view thereof, impugned order dated 03.02.2026 passed by Judicial Magistrate, Periyakulam in Crl.M.P.No.74 of 2026, is set aside and the seized vehicle viz., Compressor-Atlas Capco & TATA Hitachi in Reference No.SP-22, 70314, is directed to be released to petitioner subject to the following conditions:

(i) Petitioner shall execute a personal bond for a sum of Rs.1,00,000/-

¹.Jai Prakash Vs. State of U.P., 1992 AWC 1744

².Kamaljeet Singh Vs. State of U.P., 1986 U.P. Cri. Ruling 50 (Alld)



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(Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Periyakulam.

(ii) Vehicle shall be released after preparing a video and still photographs of the vehicle and after obtaining all information/documents necessary for identification of the vehicle.

(iii) Petitioner shall not sell or part with the ownership of the vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the vehicle within one week of being so directed.

(iv) Petitioner shall give an undertaking before respondent/authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by respondent Police and also the trial Court, failing which the respondent/trial Court is/are at liberty to confiscate the vehicle.

(v) Petitioner shall undertake to co-operate in confiscation proceedings, if it is restored and if the vehicle is directed to be confiscated, petitioner shall surrender the vehicle before the Trial Court.

(vi) Petitioner is also directed to participate in the enquiry to be conducted by the respondent Police.



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11. This Criminal Revision case is disposed of on the above terms.

19.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Judicial Magistrate Court,
Periyakulam.
- 2.The Inspector of Police,
Jeyamangalam Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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MOHAMMED SHAFFIQ, J.

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