



Crl.R.C.(MD)No.1312 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.02.2026

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

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Ragini @ Aruna

...Petitioner

VS.

State of Tamil Nadu Rep by
Narcotics Control Bureau,
Chennai Zonal Unit,
NCB.F.No.48/01/07/2025/NCB-MDS

... Respondent

PRAYER: Criminal Revision Case is filed under Section 438 r/w.442 of BNSS, 2023 to set aside the order passed by Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, in Crl.M.P.No.2991 of 2025 by an order dated 06.08.2025.

For Petitioner : Mr.R.Jothiraj

For Respondent : Mr.C.Arulvadivel @ Sekar
Special Public Prosecutor for NCB



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ORDER

Heard Mr.R.Jothiraj, learned Counsel for Revision Petitioner and Mr.C.Arulvadivel @ Sekar, learned Special Public Prosecutor for Respondent.

2. Present Criminal Revision Case has been filed to set aside the order passed by Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, in Crl.M.P.No.2991 of 2025 by an order dated 06.08.2025, whereby the petition filed under Sections 497 and 503(2) of BNSS for interim custody of vehicle bearing Reg.No. TS.33-H-0549, was rejected.

3. Mr.R.Jothiraj, learned Counsel for Revision Petitioner would submit that petitioner claims to be the owner of the vehicle, viz., White Colour Suzuki Brezza Car bearing Registration No.TS.33-H-0549. The said vehicle was seized by the Respondent and a case was registered in NCB.F.No.48/01/07/2025/NCB-MDS, for the offence under Sections 8(c)



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r/w 20(b)(ii)(c), 28 and 29 of NDPS Act, alleging that the said vehicle was involved in transportation of prohibited contraband, Ganja. Petitioner has filed Crl.MP.No.2991 of 2025 before Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, to grant interim custody of the said vehicle and the said petition was dismissed by the Court below by the impugned order dated 06.08.2025. Aggrieved, this Criminal Revision Case has been filed.

4. Learned Counsel for Revision Petitioner would further submit that Petitioner has leased out the aforesaid vehicle through her husband on 13.02.2025 to one LD Cars India Private Limited, SV No.37, Main Road Medipally, Hyderabad – 500 098, for a period of one year and the same was also placed on record along with the booking details of the customer only to substantiate that Petitioner has no knowledge or involvement in the alleged offence and she has not been arraigned as an accused. He would also submit that petitioner and her husband would abide by any conditions that may be imposed by this Court. In support thereof, he produced the copy of

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Registration Certificate of said vehicle and the same was perused by Special Public Prosecutor for Respondent, who confirmed that petitioner is the owner of the subject vehicle.

5. Learned Special Public Prosecutor would submit that the said vehicle may be released subject to conditions and petitioner along with her husband must co-operate in confiscation proceedings and the same was agreed to by learned counsel for Revision Petitioner.

6. Before proceeding further, it may be relevant to refer to the order of this Court in Crl.R.C.(MD).Nos.646 of 2024 etc., batch dated 20.12.2024, wherein, it was held that with the introduction of Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, it was only the Drug Disposal Committee constituted under the said Rules, which would have exclusive jurisdiction to decide disposal of the properties seized under NDPS Act. That being the case, power/jurisdiction to decide the interim custody of the property including vehicles seized under

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the NDPS Act, must also vest exclusively with the Drug Disposal Committee.

7. A Division Bench of the Kerala High Court had however after referring to the following judgments, viz.,

(i) Judgment of the Apex Court in *Union of India Vs. Mohanlal and another* reported in **(2016) 3 SCC 379**;

(ii) Judgment of the Apex Court in *Sainaba Vs. State of Kerala* reported in **2022 (7) KHC 273**;

(iii) Judgment of the Karnataka High Court in *Rathnamma Vs. State represented by PSI Channagiri Police Station Davanagere (Criminal Petition No.3571/2021)*;

(iv) Judgment of the Allahabad High Court in *Shams Tavrej Vs. Union of India* reported in **2023 SCC OnLine All 1154**;

(v) Judgment of the Allahabad High Court in *Rajdhari Yadav Vs. State of U.P.* reported in **2022 SCC OnLine 583**;

(vi) Judgment of the Gauhati High Court in *Union of India Vs. Tejinder Singh* reported in **2023 SCC OnLine Gau 729**,

held that the jurisdictional Special Court under the NDPS Act would have



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the power to consider the grant of interim custody of vehicles seized under the NDPS Act invoking the power under Section 457 of Cr.P.C.

8. Divergent views expressed by different High Courts have now been resolved by the Supreme Court in the case of ***Denash Vs. State of Tamil Nadu reported in 2025 Live Law (SC) 1032***, wherein, the decision in *Nahoorhani's* case relied upon by this Court while disposing of Crl.R.C. (MD).No.646 of 2024 etc., batch dated 20.12.2024, was overruled. The judgment of this Court in *Nahoorhani's* case was considered and views expressed therein were recorded at Paragraph 8 as under:

“8. The High Court held that pursuant to introduction of the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, the Drug Disposal Committee alone had the authority and jurisdiction to adjudicate upon the disposal of the property which included seized drugs as well as the conveyances. The High Court further held that since the Rules of 2022 vested exclusive jurisdiction with the Drug Disposal Committee, it could be presumed that the Committee was empowered to consider requests for interim release of a seized conveyance as well. Accordingly, the revision preferred by the appellant



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was dismissed upon which, the appellant is before us by way of the instant appeal with special leave.”

8.1 Appellant therein relied upon the judgment of the Apex Court in ***Biswajit Dey Vs. State of Assam*** reported in (2025) 3 SCC 241, wherein, it was held as under:

“Broadly speaking there are four scenarios:

33. 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.

34. 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 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.

35. 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.

Supreme Court in similar facts in Sainaba v. State of Kerala [Sainaba v. State of Kerala, (2024) 13 SCC 382 : 2022 SCC OnLine SC 1784] has released the vehicle



36. In the present case, this Court finds that after conclusion of investigation, a charge-sheet has been filed in the Court of Special Judge, NDPS Karbi Anglong. In the said charge-sheet, neither the owner of the vehicle nor the driver has been arrayed as an accused. Only a third-party occupant has been arrayed as an accused. The police after investigation has not found that the appellant i.e. the owner of the vehicle, has allowed his vehicle to transport contraband drugs/substances with his knowledge or connivance or that he or his agent had not taken all reasonable precautions against such use. Consequently, the conveyance is entitled to be released on superdari.

37. In fact, the Supreme Court in similar facts in Sainaba v. State of Kerala [Sainaba v. State of Kerala, (2024) 13 SCC 382 : 2022 SCC OnLine SC 1784] , has held as under : (SCC paras 6-9)

“6. The appellant has urged inter alia that as per Section 36-C read with Section 51 of the NDPS Act, Criminal Procedure Code would be applicable for proceedings by a Special Court under NDPS Act and Section 451 has an inbuilt provision to impose any specific condition on the appellant while releasing the vehicle. The appellant is undoubtedly the registered owner of



the vehicle but had not participated in the offence as alleged by the prosecution nor had knowledge of the alleged transaction.

7. The learned counsel seeks to rely on the judgment of this Court in Sunderbhai Ambalal Desai v. State of Gujarat [Sunderbhai Ambala Desai v. State of Gujarat, (2002) 10 SCC 283 : 2003 SCC (Cri) 1943] opining that it is no use to keep such seized vehicles at police station for a long period and it is open to the Magistrate to pass appropriate orders immediately by taking a bond and a guarantee as well as security for return of the said vehicle, if required at any point of time.

8. On hearing the learned counsel for parties and in the conspectus of the facts and circumstances of the case, and the legal provisions referred aforesaid, we are of the view that this is an appropriate case for release of the vehicle on terms and conditions to be determined by the Special Court.

9. The appeal is accordingly allowed leaving parties to bear their own costs.”

If the vehicle in the present case is kept in the custody of police till the trial is over, it will serve no purpose

38. This Court is also of the view that if the vehicle in the present case is allowed to be kept in the custody of police till the trial is over, it will serve no purpose. This Court takes judicial



notice that vehicles in police custody are stored in the open. Consequently, if the vehicle is not released during the trial, it will be wasted and suffering the vagaries of the weather, its value will only reduce.

Conclusion

40. Consequently, the present criminal appeal is allowed with directions to the trial court to release the vehicle in question in the interim on superdari after preparing a video and still photographs of the vehicle and after obtaining all information/documents necessary for identification of the vehicle, which shall be authenticated by the investigating officer, owner of the vehicle and accused by signing the same. Further, the appellant 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 and/or pay the value of the vehicle (determined according to income tax law on the date of its release), if so ultimately directed by the Court.”

9. It was urged before the Supreme Court in *Denash's* case that the judgment of the Apex Court in *Biswajit Dey's* case was *per incuriam*/sub



silentio inasmuch as the 2022 Rules was not noticed. The same was however rejected by finding that the 2022 Rules while laying down the procedure for initiation and disposal of seized vehicles is silent on the rights of persons whose property is affected by such disposal. It was held that the above omission in the rule assumes significance particularly in cases where the seized property is not a contraband *per se* but a conveyance or container of a third party having no connection with the seized contraband. The Apex Court thereafter proceeded to consider Section 60 and 63 of NDPS Act, which form the statutory framework governing confiscation and rights of claimants and held as under:

*“19. Section 60 deals with the liability of illicit drugs, substances, articles, and conveyances to confiscation. Sub-section (3) specifically provides that any animal or conveyance used in carrying a narcotic drug or psychotropic substance shall be liable to confiscation **unless the owner proves that such use occurred without his knowledge or connivance, and that he, his agent (if any), and the person-in-charge had taken all reasonable precautions against such use.** In other words, where the owner is able to demonstrate that the conveyance was used in violation of the NDPS Act without his knowledge or*



connivance and that due diligence was exercised, the vehicle cannot be confiscated merely because it was used in the commission of an offence under the said Act. However, the Rules of 2022 (supra) do not provide any such liberty to the owner nor do they empower the Committee to release a vehicle/conveyance seized under the Act.

20. Section 63 sets out the procedural mechanism to be followed by the Special Court before passing any order relating to seized property. It mandates that no final order of confiscation of the conveyance can be passed without affording an opportunity of hearing to the person claiming ownership and without considering the evidence adduced in support of such claim. Importantly, the statute expressly vests this adjudicatory power in the Special Court, thereby excluding any administrative or executive authority, such as the Drug Disposal Committee from unilaterally determining the fate of a seized vehicle where ownership is claimed and fortified by a lawful defence in terms of Section 60(3) of the NDPS Act.

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 dutybound to hear such claim before deciding the fate of the seized vehicle including confiscation.

22. The legislative scheme thus contemplates that confiscation, being a measure resulting in deprivation of property, must conform to the basic tenets of natural justice and must be preceded with a prior hearing which would ensure that an innocent owner or a bona fide claimant, whose vehicle or container might have been misused without his knowledge or connivance, is not subjected to undue hardship and unjust deprivation of his property.

23. Let us take two examples:

(a) The vehicle owned by one 'X' is stolen and thereafter, the thief uses the said conveyance to transport narcotic or psychotropic drug. In such a situation, would it be justified in leaving the innocent owner to undergo the ordeal of moving the Drug Disposal Committee after waiting for the arrival of the chemical examiner's report, before the vehicle can be released?

(b) Where a bona fide transporter, assigns his transport vehicle to a driver and the said driver, in the process of carrying the consigned goods, collects some narcotic material on the way and is apprehended. In such a situation, would it be justified to



leave the owner of transport vehicle to await the chemical examiner's report and then approach the Drug Disposal Committee for release of the vehicle?

24. Our answer is in the negative. This can never be the intent of the statute and the interpretation to this effect would defeat the very purpose behind Section 60(3) of the NDPS Act read with Sections 451 and 457 of CrPC [Sections 497 and 503 of BNSS].

25. This position has been recently clarified by this Court in Tarun Kumar Majhi v. State of West Bengal, wherein it was observed as follows:

“It is settled law that the seized vehicles can be confiscated by the Trial Court only on conclusion of the trial when the accused is convicted or acquitted or discharged. Further, even where the Court is of the view that the vehicle is liable for confiscation, it must give an opportunity of hearing to the person who may claim any right to the seized vehicle before passing an order of confiscation. However, the seized vehicle is not liable to confiscation if the owner of the seized vehicle can prove that the vehicle was used by the accused person without the owner's knowledge or connivance and that he had taken all reasonable precautions against such use of the seized vehicle by the accused person.”



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 CrPC [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.

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 CrPC [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.

31. In the present case, it is manifest that the appellant is the true owner of the vehicle, having valid documents. The vehicle was lawfully engaged for transportation of iron sheets weighing 29,400 MT. The seized drug, i.e., 6 kilograms Ganja



was found in possession of the four accused persons present in the vehicle. Neither was the appellant chargesheeted in the matter nor did the prosecution allege him to be acting in conspiracy. As a necessary corollary, it can 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.

32. Having regard to the valuable consignment being transported and the high value of the vehicle, it does not stand to reason that the appellant, being the owner thereof, would knowingly jeopardize his business and property by permitting the transportation of 6 kilograms of Ganja alongside such valuable cargo.

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 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 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.

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 chargesheeted 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 (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.

36. In wake of the discussion made hereinabove, the appeal deserves to succeed. The impugned judgment dated 20th



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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.”

10. 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.

11. In view thereof, impugned order dated 06.08.2025 passed by Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, in Crl.M.P.No.2991 of 2025, is set aside and the seized vehicle bearing Registration No.TS.33-H-0549, is directed to be released subject to the following conditions:

(i) Petitioner shall execute a personal bond for a sum of **Rs.1,00,000/- (Rupees One Lakh only)** with two sureties each for a like sum to the



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satisfaction of Additional District Judge/Presiding Officer, Special Court
under Essential Commodities Act, Thanjavur.

(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 she shall surrender the vehicle within one week of being so directed.

(iv) Petitioner shall give an undertaking before respondent/authority concerned stating that she 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 undertake to co-operate in confiscation proceedings, if any, initiated/to be initiated.

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



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(vii) Petitioner shall surrender the original R.C. Book before

Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur.

(viii) Petition relating to return of R.C. Book for any purpose in the future may be filed before Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, who may consider the same on merits, though this order has been passed by the High Court.

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

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Internet: Yes/No
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To:-

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- 1.The Additional District Judge/Presiding Officer,
Special Court under Essential Commodities Act,
Thanjavur.
- 2.Narcotics Control Bureau,
Chennai Zonal Unit,
NCB.F.No.48/01/07/2025/NCB-MDS
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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MOHAMMED SHAFFIQ, J.

Nsr

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