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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28-10-2026

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

CRL OP(MD) No. 24318 of 2026

CNR:{HCMD011501842026}

A. Ramar
S/o. Athangaraiyan,
No.3/34,
Vasavappapuram,
Ambethkar Nagar,
Seydunganallur,
Srivaikuntam Taluk,
Thoothukudi District.

..Petitioner(s)

Vs

State Of Tamilnadu,
Rep., by the Inspector Of Police,
Panagudi Police Station,
Tirunelveli District,
Crime No.1042/2026.

..Respondent(s)

PRAYER: This Petition filed under section Petition u/s 528 of BNSS C-45S.To set aside the Returned docket order dated 28.07.2026 in Crl.MP.Sr No. 4484 of 2026 in Crime No. 1042 of 2026 and issue direction directing the learned Judicial Magistrate, Vallioor, to take up the Crl.MP.Sr No. 4484 of 2026 in Crime No. 1042.

For Petitioner(s) :Mr.S.Anbuchezhian

For Respondent(s) :Mr.B.Arun
Government Advocate (Crl.Side)

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ORDER

The present petition has been filed challenging the Returned Docket Order dated 28.07.2026 in Crl.M.P.SR.No.4484 of 2026 in Cr.No.1042 of 2026, on the file of the learned Judicial Magistrate, Vallioor.

2. The petitioner's son is accused in Cr.No.1042 of 2026, wherein he is alleged to have committed offences under the NDPS Act. The petitioner herein who is admittedly the owner of the two wheeler had filed an application for return of the Bajaj Pulsar two wheeler bearing Reg.No.TN 92 J 5247.

3. The said application has been returned pursuant to the interim order on the ground that, in view of Section 52(A) of the NDPS Act, the Court has no jurisdiction to entertain an application for the return of property in respect of vehicles involved in NDPS cases. Aggrieved by the said order of return, the present petition has been filed.

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4. According to the learned counsel appearing for the petitioner, Section 52(A) of the NDPS Act, only deals with the disposal of seized narcotic drugs and substances and it has nothing to do with the return of the vehicles involved in the alleged offence.

5. He further submitted that the petitioner is not an accused and his son is alleged to have used the said vehicle in transporting the narcotics.

6. He also relied upon the judgment of the Hon'ble Supreme Court in the case of ***Deanash vs. The State of Tamil Nadu***, reported in 2025 SCC OnLine SC 2276 in support of his contentions.

7. Per contra, the learned Government Advocate (Criminal Side), appearing on behalf of the respondent submitted that he placed reliance on the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022. He specifically referred to Chapter IV thereof, which deals with the disposal of contraband substances as well as conveyances. In this regard, he relied upon Rules 16, 18, 19, 21, 22 and 23(5)(e).

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8. The learned Government Advocate (Criminal Side) appearing for the respondent further submitted that the vehicle is in the custody of the Drug Disposal Committee and that, in such circumstances, the learned Trial Judge was justified in returning the application seeking interim release of the vehicle.

9. Heard the learned counsel appearing for the petitioner and perused the material records of the case.

10. Admittedly, the present petitioner herein is not an accused in Cr.No.1042 of 2026. His son is said to have used the two-wheeler belonging to the petitioner for conveyance of contraband.

11. The Hon'ble Supreme Court in a decision dated 03.03.2025 between ***Tarun Kumar Majhi vs. The State of West Bengal***, in Spl.Crl.No.17081 of 2024 in paragraph 12 and 13 has held as follows:-

> *"12. 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*

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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.

13. Recently this Court in ***Bishwajit Dey vs. The State of Assam, Criminal Appeal No.87 of 2025*** *dated 7th January, 2025 has held that there is no specific bar / restriction under the NDPS Act for release in the interim of any seized vehicle."*

12. The Honble Supreme Court in a decision in ***Deanash vs. The State of Tamil Nadu***, reported in 2025 SCC OnLine SC 2276, in paragraph 29 and 30 has held as follows:-

"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.PC (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.

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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."

13. In view of the decision of the Hon'ble Supreme Court cited supra, it is clear that neither the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, nor Section 52A of the NDPS Act can be interpreted as divesting the Special Court of its jurisdiction to entertain an application for interim release of a seized vehicle.

14. That apart, the question of confiscation and sale of the vehicle by public auction by the Drug Disposal Committee can arise only after the question of the trial when the accused is convicted or discharged.

15. That apart, the Hon'ble Supreme Court has further pointed out that the authority of the Special Court to pass appropriate orders for interim custody during the dependency of the trial is independent of the disposal mechanism envisaged under the 2022 Rules.

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16. In such view of the matter, the impugned Returned Docket Order is liable to be set aside. Accordingly, it is set aside. The learned Trial Judge is directed to number the said application and dispose of the same on merits and in accordance with law in the light of the decisions of the Hon'ble Supreme Court cited supra.

17. Accordingly, the criminal original petition stands allowed. Registry is directed to return the original impugned order.

28-10-2026

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

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To

1. The Inspector of Police,
   Panagudi Police Station,
   Tirunelveli District,
   Crime No.1042/2026.

2. The Additional Public Prosecutor
   Madurai Bench of Madras High Court
   Madurai

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R.VIJAYAKUMAR, J.
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