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CrI.O.P.No.5227 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.5227 of 2026

Murugan

... Petitioner

Vs.

The State rep. by
The Station House Officer,
Prohibition Enforcement Wing
Police Station (PE Wing),
Gingee, Villupuram District.
(Crime No.24 of 2025)

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS to set aside the returned docket order dated 06.11.2025 made in unnumbered CMP.No. 2025 and direct the Special Court for trial of Narcotic Drugs and Psychotropic Substance Act Cases, Villupuram to dispose the same in accordance with law.

For Petitioner : Mr.K.T.S.Sivakumar

For Respondent : Mr.Leronard Arul Joseph Selvam
Additional Public Prosecutor



ORDER

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The petitioner, owner of Bajaj KTM 200 Duke bearing registration No.TN-25-CK-5085 filed a petition for return of property before the Special Court for trial of Narcotic Drugs and Psychotropic Substance Act Cases. The Trial Judge returned the petition for the reason “This application is returned based on the Hon’ble High Court Madras Circular in ROC.No.70917-A/2025/F1 dated 01.09.2025”. Against which, the present petition filed.

2.The contention of the learned counsel for the petitioner is that the petitioner is a daily waged and he uses the bike for his work. The petitioner recently purchased the bike with financial assistance from Bajaj Auto Credit Limited. One Naveenkumar, who is a resident of Avalurpettai and known to the petitioner through his relative requested and taken the bike from the petitioner to visit his family members at Avalurpettai. Thereafter, the petitioner came to know that the bike was involved and seized in Crime No.24 of 2025 for the offence under Section 8(c), 20(b)(ii(A) of NDPS Act and the said Naveenkumar was arrayed as A2 in this case. The petitioner is



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not an accused and he was not aware of the intention of said Naveenkumar.

The petitioner was not aware as to for what reason, the bike was seized. The petitioner approached the respondent but the respondent failed to provide any proper reason.

3.The learned counsel for the petitioner referred to the decision of the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai vs. State of Gujarat* reported in (2002) 10 SCC 283 wherein the Apex Court had clearly given the guidelines directing the Courts to return the vehicles. He further referred to the order passed by this Court in *Crl.O.P.No.33623 of 2025 (Mohamed Abdul Kader Seyed vs. State rep. by Inspector of Police, Ambattur Police Station, Prohibition Enforcement Wing (PEW), Ambattur)* wherein this Court referred to the order of the Apex Court in the case of *Denash vs. State of Tamil Nadu* reported in 2025 SCC Online SC 2276 following another judgment of the Hon'ble Supreme Court in the case of *Bishwajit Dey vs. State of Assam* reported in 2025 INSC 32 and held that the Trial Court returning the return of proper petition citing the ROC not even numbering and hearing the parties and not considering the case on merits is in direct contravention to the Apex Court judgment and hence, to



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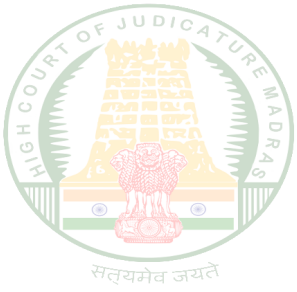
consider the petition on merits and in accordance with law. According to the petitioner, he is not involved in the case, his vehicle was parked in a far away place and the seizure shown is stage mannered, the petitioner has got proof to prove fabrication and unless an opportunity is given, he cannot substantiate his claim. Hence, prayed for appropriate orders.

4.The learned Additional Public Prosecutor submitted that the petitioner's vehicle was involved in NDPS case. One Naveenkumar, who is known to the petitioner used the vehicle and contraband was seized from the vehicle. He would submit that since the vehicle was involved in NDPS case, the Trial Court following the ROC issued by this Court in ROC.No.70917-A/2025/F1 dated 01.09.2025, dismissed the same. He fairly submitted that the petitioner is not an accused in this case. Even in the judgment of the Hon'ble Supreme Court, four contingencies given in considering the return of property petition. The petitioner fall under first contingency. The petitioner being the owner of the car and from whom, the contraband seized and hence, the Trial Court not entertaining and returning the petition is proper. Hence, prayed for dismissal.



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5. Considering the submissions made and on perusal of the materials, without going into the merits of the case and the contentions of the petitioner and the objections of the learned Additional Public Prosecutor and by not numbering and returning the petition filed for return of property citing ROC.No.70917-A/2025/F1 dated 01.09.2025 is not proper in view of the orders of the Hon'ble Supreme Court as per Article 141 of Constitution of India. The Hon'ble Supreme Court in the case of *Sainaba vs. State of Kerala and another* reported in (2024) 13 SCC 382 ordered return of property/vehicle finding that the opinion expressed by the High Court that it is not empowered to exercise the jurisdiction under Section 451 of Cr.P.C. to release the vehicle involved in NDPS Act to grant interim custody is not proper, referring to the case of *Sunderbhai Ambalal Desai* held that return of property petition is maintainable. This order was delivered on 18.11.2022 and ROC.No.70917-A/2025/F1 was issued by the High Court on 01.09.2025 following directions in Crl.A.(MD).No.192 of 2024 dated 09.07.2025. A scanned reproduction of ROC.No.70917-A/2025/F1 dated 01.09.2025 is as follows:



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WEB COPY R.O.C.No.70917-A/2025/F1



P.Dis.No. 84 /2025

CIRCULAR

- Sub: Judgment passed by the Madurai Bench of Madras High Court in Crl.A.(MD)No.192 of 2024, dated 09.07.2025 – Disposal of seized conveyances and property – Strict compliance with Section 52A of NDPS Act, NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 and Section 497 BNSS – Directions for uniform practice in all Trial Courts – Circular issued.
- Ref: Judgment passed by the Madurai Bench of Madras High Court in Crl.A.(MD)No.192 of 2024, dated 09.07.2025.

The Madurai Bench of Madras High Court, vide Judgment dated 09.07.2025, passed in Crl.A(MD)No.192 of 2024, has issued specific binding directions regarding the handling and disposal of seized vehicles and other properties in NDPS Cases. The Hon'ble Court has noted with concern the following:-

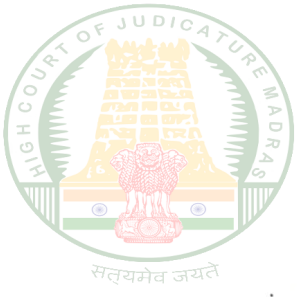
- (i) Despite repeated Judicial emphasis particularly by the Hon'ble Supreme Court of India in *Sunderbhai Ambalal Desai V. State of Gujarat* [(2002) 10 SCC 283], *Basavalingappa v. State of Karnataka* [(2001) 1 SCC 504] and *Union of India v. Mohanlal* [(2016) 3 SCC 379], the practice of leaving seized vehicles in custody, unattended for years, continues to persist. This undermines the evidentiary chain, invites deterioration of public assets, and burdens the judicial process post-trial.
- (ii) Long retention of seized vehicles and materials contributes to court congestion, storage hazards, and pilferage risk.



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- (iii) Regarding storage related challenges, Section 52-A of NDPS Act was introduced via Act 2 of 1989 for pre-trial disposal, with safeguards such as inventories and certification by Magistrates and the term “Conveyance” was added to Section 52-A in the year 2014, making vehicles used in drug crimes also eligible for pre-trial disposal.
- (iv) Moreover the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, which prescribe specific timelines and steps for pre-trial disposal.
- (v) This Court finds it imperative to reiterate that systemic lapses in the disposal of seized conveyances and contraband under the NDPS Act remain a recurring concern.
- (vi) The Trial Courts are mechanically invoke Sections 451 and 457 of Cr.P.C for interim custody/release in NDPS matters, disregarding both the NDPS Act and BNSS mandates. Section 497 BNSS read with Sections 498 to 505 BNSS provides a comprehensive and time-bound mechanism that must supersede older practices under the Cr.P.C
- (vii) Judicial Orders that bypass the NDPS Act and the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022 not only defeat legislative intent but also embolden offenders to reclaim vehicles used in crimes.
- (viii) The disposal or release of a seized vehicle is a separate matter from the trial of the accused. Merely because trial is pending does not prevent the Drug Disposal Committee from proceeding with disposal under the statute. Claimants must approach the competent authority under the NDPS Act and not seek relief through interim custody applications under Cr.P.C.



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In view of the above, the Hon'ble Court has directed as follows:-

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- (i) All the Investigating Officers, Prosecuting agencies and Special Courts handling NDPS cases shall strictly comply with the procedures under Section 52A of the NDPS Act and the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022. Priority must be accorded to pre trial disposal wherever permissible.
- (ii) Disposal shall be treated as an integral part of case processing, and not as a postscript.
- (iii) The Special Courts shall actively monitor compliance.
- (iv) Drug Disposal Committees shall expeditiously process referred properties to prevent administrative delay and loss of evidentiary integrity.

As directed, all the Special Courts handling NDPS Cases in the State of Tamil Nadu and Union Territory of Puducherry, shall adhere to the above direction scrupulously, without any deviation.

HIGH COURT, MADRAS.

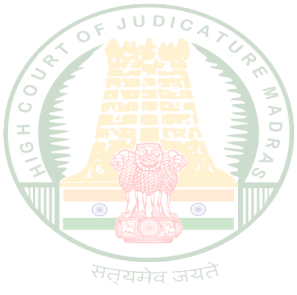
Dated: 01.09.2025.

REGISTRAR GENERAL

To:

1. All the Principal District Judges/District Judges in the State of Tamil Nadu. }
2. The Principal Judge, City Civil Court, Chennai. }
3. The Chief Judge, Court of Small Causes, Chennai. }
4. The Chief Judge, Puducherry. }
5. The District Judge, Karaikal. }

With a direction to communicate this Circular to all the courts under your jurisdiction.



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6. The Presiding Officers of the Special Courts for Trial of cases under NDPS Act at Chennai, Madurai, Coimbatore, Pudukottai, Thanjavur, Salem, Villupuram and Union Territory of Puducherry.
7. The Director, Tamil Nadu State Judicial Academy, R.A.Puram, Chennai-28. (with a request to communicate the Circular to Regional centres in Coimbatore and Madurai.)
8. The Court Manager, High Court, Madras (with a request to communicate the Circular to all the Court Managers in Tamil Nadu and Puducherry through e-mode.)
9. The Section Officer, "F" section, Madurai Bench of Madras High Court, Madurai.
10. The Section Officer/Record Keeper, A.D.Records, High Court of Madras and Madurai Bench of Madras High Court, Madurai.

Copy to:-

The Director General of Police,
Government of Tamil Nadu,
Maylapore, Chennai – 4.

6.Further, the Madurai Bench of this Court in ***Crl.R.C.(MD).No.1021 of 2024 (Denash vs. State of Tamil Nadu)*** dismissed the return of property petition by order dated 20.12.2024 holding that vehicle seized under the provisions of NDPS Act was not amenable to relase on interim custody by invoking the provisions under Sections 451 and 452 of Cr.P.C. (sections 497 and 498 of BNSS) as the same was liable to confiscation under Section 63 of



the NDPS Act. Following the *Sainaba's* case, the Apex Court in the case of

Bishwajit Dey vs. State of Assam reported in **(2025) 3 SCC 241**, held that

criminal law has not to be applied in a vacuum but to the facts of each case and classified four contingencies, namely,

(i) Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered.

(ii) 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.

(iii) Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle.

(iv) 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.

7.The Apex Court further held that in the first two contingencies, the owner of the vehicle or his agent would necessarily be arrayed as an accused



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and in the third and fourth contingencies, the owner of the vehicle or his agent would not be arrayed as an accused but they are not precluded from filing and claiming return of property. The only condition imposed is that for the first two contingencies, vehicle may not be released on superdari till reverse burden of proof is discharged by the petitioner/owner. For the third and fourth contingencies, when there is no allegation made in the charge sheet against the owner of the vehicle, 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 he would pay the value of the vehicle as determined by the Court on the date of release, if the Court is finally of the opinion that the vehicle needs to be confiscated.

8.The Apex Court in the case of *Tarun Kumar Majhi vs. State of West Bengal* reported in *2025 SCC Online SC 2362* referred to the case of *Bishwajit Dey* for release in the interim of any seized vehicle which is further clarified and followed in the case of *Denash vs. State of Tamil Nadu* reported in *2025 SCC Online SC 2276* wherein the impugned order was passed by the Madurai Bench of this Court and the Apex Court referred to

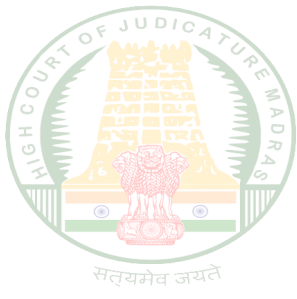


four contingencies and clarified that discussion should be taken and laying down a rigid formula is not proper as it will be open to the Trial Courts to take a different view if the facts of the case so warrants.

9.In Crl.O.P.No.33623 of 2025, this Court by order dated 11.12.2025 referring to the case of ***Denash and Bishwajith Dey***, observed that not entertaining the return of property petition and returning the same even without numbering is not proper and petitions to be numbered, heard and decided on merits. Thus, citing ROC and returning the petition would not be proper.

10.In the case of ***Denash***, the Apex Court taken a holistic reading of Sections 60(3) and 63 of NDPS Act with Sections 451 and 457 Cr.P.C. (Sections 497 and 503 of BNSS). It would be apposite to extract the relevant paragraphs, which is 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



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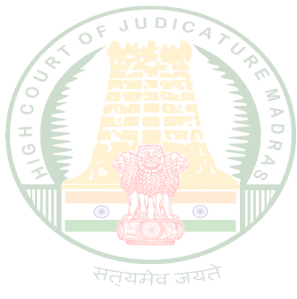
stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty-bound to hear such claim before deciding the fate of the seized vehicle including confiscation.

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



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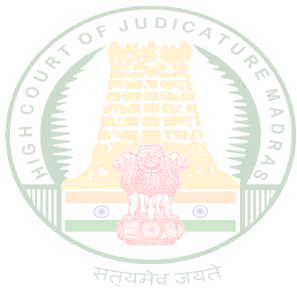
and then approach the Drug Disposal Committee for release of the vehicle?

25.This position has been recently clarified by this Court in [Tarun Kumar Majhi v. State of West Bengal](#)¹⁰, 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.”

(Emphasis Supplied)

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



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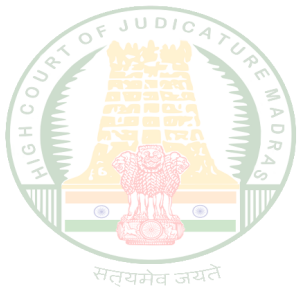


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ownership rights of the owner, who prima facie establishes that he is unconnected with the seized contraband, from claiming the seized vehicle cannot be extinguished. It further underscores that the power of confiscation is coupled with a duty to observe 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](#).

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



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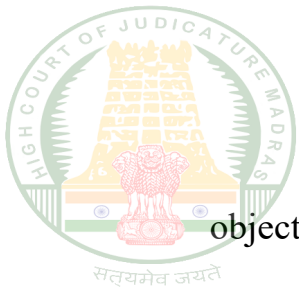


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*pursuant to the promulgation of the Rules of 2022, all other forums, including the Special Court, are divested of the jurisdiction to decide the fate of a seized conveyance under the **NDPS Act** and that the aggrieved person must necessarily approach the Drug Disposal Committee, is unsustainable in the eyes of law.*

11.Hence, the consistent view and directions given by the Apex Court is that the statutes stipulates that where an owner proves absence of knowledge or connivance, the Special Court is duty bound to hear such claim by deciding the fate of the seized vehicle including confiscation. In view of the above, the Trial Court returning the return of property petition is not proper and it would amount to violating Article 141 of Constitution of India. It is fundamental that no petition can be returned summarily without giving opportunity of hearing the petitioner.

12.Accordingly, the docket order passed by the Trial Court in unnumbered CMP.No. of 2025 dated 06.11.2025 is set aside. The petitioner to either represent the petition or file a fresh application which the Trial Court concerned to receive the same, hear the petitioner and the



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objections and dispose of the petition in accordance with law on the facts and circumstances of each case.

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13. With the above directions, the Criminal Original Petition stands allowed.

16.03.2026

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

Note: The Registry is directed to return the original petition to the learned counsel for the petitioner.

To

1. The Station House Officer,
Prohibition Enforcement Wing
Police Station (PE Wing),
Gingee, Villupuram District.
2. The Additional District Judge/
Presiding Officer,
Special Court for EC Act Cases,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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