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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 08.10.2026

DELIVERED ON: 16.10.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.MURUGESAN

CRL.RC.(MD)No.1475 of 2026

A.Santhanam ...Petitioner

Vs.

The State of Tamil Nadu rep.by
The Inspector of Police,
Sivanthipatti Police Station,
Tirunelveli District.
Crime No.290 of 2026 ... Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 Cr.P.C.,/438 and 442 BNSS, to call for the records pertaining to the order passed by the learned Judicial Magistrate No.III, Tirunelveli in Crl.M.P.No.2972 of 2026 dated 01.08.2026 and to set aside the same by allowing the above criminal revision petition.

For Petitioner : Mr.V.Vijayendiran

For Respondent : Mrs.V.Moushica,
Counsel for State of TN(Crl.Side)

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ORDER

Heard and admitted.

02. With the consent of both parties, this criminal revision was taken up for final hearing on 08.10.2026.

03. Claiming an order setting aside the dismissal order dated 01.08.2026 of the Judicial Magistrate III, Tirunelveli, hereinafter referred to as 'the trial court' for the sake of brevity, passed in Crl.MP. No.2972/2026, an application filed by the revision petitioner/petitioner/third party under S.497 and S.503 BNSS for an order granting her interim custody of a vehicle, Honda Venue Car, bearing registration number TN 38 CV 8507, involved in Cr.No.290/2026 under S.4(1)(A), S.4(1)(i) and S.14(A) TNP Act, on the file of Devarkulam Police Station, Tirunelveli District, the revision petitioner/petitioner/third party has filed this Criminal Revision Petition under S.438 BNSS.

04. For the sake of convenience, the parties are referred hereunder according to their litigative status and ranking in this criminal revision,

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'the revision petitioner' and 'the revision respondent', unless the context otherwise requires.

05. Sans minute details, the case of the revision petitioner in the trial court is that a vehicle, Honda Venue Car, bearing registration number TN 38 CV 8507, is said to have involved in Cr.No.290/2026 under S.4(1)(A), S.4(1)(i) and S.14(A) TNP Act, on the file of Devarkulam Police Station, Tirunelveli District, that in pursuance of such registration of the criminal case, the aforesaid property has been seized by the respondent police, that the aforesaid property is now in the custody of the respondent police but without proper care or maintenance, that the aforesaid property, if left idle without proper maintenance, would become useless and ruined and that therefore, the interim custody of the aforesaid property needs to be granted to the revision petitioner being its owner.

06. Bereft of unnecessary details, the case of the revision respondent in the trial court is that since the confiscation proceedings have been initiated, the interim custody of the vehicle cannot be granted.

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07. Neither the revision petitioner nor the revision respondent has chosen to lead any evidence, either oral or documentary, before the trial court.

08. On enquiry, the trial court has dismissed the criminal miscellaneous petition in Crl.MP.No.2972/2026 on the finding that since the confiscation proceedings have been initiated, the interim custody of the vehicle cannot be granted.

09. Learned counsel for the revision petitioner would submit that the revision petitioner is the owner of the vehicle, that the revision petitioner is not the accused in the case concerned, that the accused is the son of the revision petitioner, the dismissal of the claim of interim custody of the properties is not only against law but also against the settled principles on such grant of interim custody of the vehicles, that the trial court, without due application of its judicial mind, has simply accepted the objections raised by the revision respondent and thereby dismissed the criminal miscellaneous petition in mechanical manner, that therefore, the order of the trial court is obviously liable to be interfered with and that therefore, this criminal revision petition, in the

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interest of justice, needs to be allowed, setting aside the order of the trial court and thereby granting the interim custody of the property concerned.

10. Learned counsel for the State (Crl Side) appearing for the revision respondent would also submit that since the confiscation proceedings have been initiated, the interim custody of the vehicle cannot be granted, that therefore, the order of the trial court is lawful and perfect and that therefore, this criminal revision petition deserves for dismissal *in limine*.

11. Heard both sides, and perused all material records.

12. On careful consideration of the criminal revision petition filed by the revision petitioner, the related material records and the submissions made on both sides, this Court formulates the following point for determination:

Whether the revision petitioner is entitled to get such order setting aside the dismissal order dated 01.08.2026 of the Judicial Magistrate III, Tirunelveli, passed in Crl MP No.2972/2026, an application filed by the

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revision petitioner/petitioner/third party under S.497 and S.503 BNSS for an order granting her interim custody of a vehicle, Honda Venue Car, bearing registration number TN 38 CV 8507, involved in Cr No.290/2026 under S.4(1)(A), S.4(1)(i) and S.14(A) TNP Act, on the file of Devarkulam Police Station, Tirunelveli District, as prayed for?

13. The Point

(1) S.497 BNSS deals *inter alia* with the custody of the property, produced before a criminal court, pending investigation, inquiry or trial. S.498 BNSS deals *inter alia* with the delivery of the property, produced before a criminal court, at the conclusion of investigation, inquiry or trial. S.503 BNSS deals *inter alia* with the delivery of the property, not produced before a criminal court.

(2) S.497 BNSS would read as under:

> 497. Order for custody and disposal of property pending trial in certain cases.
>
> (1) When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any

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investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.-For the purposes of this section, "property" includes- (a) property of any kind or document which is produced before the Court or which is in its custody;

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

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(4)The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.

(3) S.498 BNSS (relevant provisions thereof) would read as under:

498. Order for disposal of property at conclusion of trial.

(1)When an investigation, inquiry or trial in any criminal case is concluded, the Court or the Magistrate may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2)An order may be made under sub-section (1) for

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the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without securities, to the satisfaction of the Court or the Magistrate, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

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……..

(4) S.503 BNSS (relevant provision thereof) would read as under:

503. Procedure by police upon seizure of property.

(1)Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Sanhita, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

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(5) Therefore, it is clear that S.497, S.498 and S.503 BNSS deal with the custody or delivery, as the case may be, of the property involved in a criminal case, and such claim of custody or delivery can be made by a person entitled to the possession thereof.

(6) A vehicle is said to have involved in this case on hand and accordingly, the aforesaid property has been seized by the police and produced before the court concerned.

(7) On careful study on the order dated 01.04.2026 of the trial court passed in Crl MP No.2972/2026, this court finds that the trial court has dismissed the aforesaid application filed under S.497 BNSS on the ground that since the confiscation proceedings have been initiated, the interim custody of the vehicle cannot be granted.

(8) At this juncture, this court would like to refer to the decision of Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai V State of Gujarat ((2002) 10 SCC 283)*** and the relevant portion thereof would read as under:

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'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 applications for return of such vehicles.'

(9) ***Selvam V State by Inspector of Police (2012 (1) MWN (Cr) 288)*** is also a case where this court, while dealing with the return of a vehicle to the claimant/accused has held as under:

'6……., it would be seen that in directing return of vehicles, even to Accused persons, in the manner contemplated in the decisions of the Apex Court of Sunderbhai Ambalal Desai V State of Gujarat, 2003 (1) CTC 175 and General Insurance Council and others V State of Andhra Pradesh and others, 2010 (6) SCC 768, no trampling of powers bestowed upon the trial Courts under Section 452 CrPC is involved. Therefore, it would be fit and proper to deal with applications seeking return of vehicles without

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being clouded with the vision of the claimant being an Accused.'

(10) Incidentally, this court would like to refer to the recent decision of the Hon'ble Supreme Court in ***R.Manimaran V State of Tamil Nadu (2026 INSC 946)***, where it has been held as under:

> 13. It cannot be forgotten that the vehicle kept in the custody of the Police or the Court, during the pendency of the trial, may deteriorate and become unusable in the long run.

(11) It is therefore clear that keeping a vehicle involved in an offence, either in police stations or in courts, for a long time is not warranted and that an application seeking the interim custody of the vehicle needs to be dealt with judiciously and expeditiously, regardless of the fact that the applicant is the accused in the offence concerned.

(12) What stirs the mind of this court is that confiscation proceedings in ந.க.எண்.61/காது.க/ம.அ.பி/திலி.மாவட்டம/2026 are reported to have been initiated against the vehicle concerned. Therefore, now the

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question is whether, during the pendency of such confiscation proceedings against the vehicle concerned under the Tamil Nadu Prohibition Act, 1937, (in short, TNP Act), such custody of the vehicle can be claimed/granted under S.497 and S.503 BNSS?

(13) Of course, S.14(4) TNP Act, which speaks of the confiscation of vehicles by the competent authorities, would read as under:

> 14. Confiscation how ordered. –
>
> (1) …….
>
> (2) …….
>
> (3) …….
>
> (4) Notwithstanding anything contained in sub-sections (1) to (3), the Collector or other Prohibition Officer in-charge of the district or any other officer authorised by the State Government in that behalf is satisfied that an offence has been committed against this Act and whether or not a prosecution is instituted for such offence, he may, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of any animal, vessel, cart or other vehicle used in the commission of such offence:
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> .....

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(14) ***David V Sakthivel, Inspector of Police cum Station House Officer, Prohibition Enforcement, Wing, Tindivanam, Villupuram District ((2010) 1 MLJ (Criminal) 929)*** is a case where the exercise of S. 451/S.457 CrPC (S.497/S.503 BNSS) vis-à-vis S.14(4) TNP Act has been elaborately discussed by a Division Bench of this court, and the relevant excerpts would read as under:

> 18. Section 14(1) of TNP Act deals with powers of Court to pass an order of confiscation at the conclusion of the trial whether the case ends in conviction or acquittal. Section 14(1) of TNP Act is akin to Section 452 Criminal Procedure Code. Under Section 14(2) of TNP Act, Court is empowered to pass an order of confiscation during the trial of a case for an offence under Tamil Nadu Prohibition Act. Powers of Court under Section 14(2) of TN P Act is akin to Section 451 Criminal Procedure Code.
>
> 19. Section 14(4) of TNP Act starts with non obstante clause vesting with power of Executive/District Collector or other Prohibition Officer in charge of the District or any other Officer authorised by the State Government, pass orders of confiscation of vehicle involved in the commission of offence against Tamil Nadu Prohibition Act notwithstanding whether prosecution is instituted or not.

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Main question falling for consideration is when confiscation proceedings are initiated under Section 14(4) of TNP Act, whether it takes away jurisdiction of the Court to exercise powers under Central enactment viz., under Sections 451 or 457 Criminal Procedure Code.

20. We may note that Section 14(4) of TNP Act prior to substitution by Act 24 of 1990 was struck down as unconstitutional, since old provision has taken away the power to pass interim orders till the case is disposed of. In D. Shanthalakshmi and Others v. State of Tamil Nadu and Others (supra) Division Bench has also observed that right to approach the Court for getting redressal with regard to property detained has been prohibited under Section 14(4) of TNP Act (prior to substitution) and the same was struck down as ultra vires the Constitution. Now to say that Court cannot exercise the powers once confiscation proceedings are initiated under Section 14(4) of TNP Act as it stands subsequent to the amendment would amount to *status quo ante* D. Shanthalakshmi and Others v. State of Tamil Nadu and Others (supra). Applying the ratio of D. Shanthalakshmi and Others v. State of Tamil Nadu and Others (supra) in our considered view Section 14(4) of TNP Act cannot take away the jurisdiction of the Court to exercise the powers under Sections 451 and 457 Criminal Procedure Code, since Court draws its power from the

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Central enactment.

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22. As rightly submitted by the learned Advocate General, Section 14(4) of the Act does not take away the jurisdiction of the Court and exercise of power under Sections 451 or 457 Criminal Procedure Code But discretion of Court has to be exercised judiciously and exercised with due care and caution. Where seizure of vehicle involved in an offence of prohibition reported to the Magistrate, exercise of discretion and ordering of interim custody under Sections 451 or457 Criminal Procedure Code is not automatic. Notwithstanding the involvement of the vehicle in the commission of prohibition offence, if there is automatic exercise power by the Court, Section 14(4) of the Act would become a dead letter. In our view, order of confiscation of a vehicle involved in the commission of offence under Section 14(4) of TNP Act is not only punitive but also deterrent. While so, when the vehicle is involved in the commission of a prohibition offence, exercise of discretion by the Court with care and caution would serve various purposes. While before passing any order in respect of the vehicle involved in the commission of prohibition offence, Court should keep in view the spirit of Section 14(4) of the Act and the benevolent objects of Tamil Nadu Prohibition Act.

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23. Before proceeding to exercise the jurisdiction under Sections 451 or 457 Criminal Procedure Code in respect of the vehicle involved in the commission of prohibition offence. Court has to ascertain from the Prosecutor whether any confiscation proceedings has been initiated by the District Collector/Prohibition Officer or authorised Officer as contemplated under Section 14(4) of TNP Act. Only after affording sufficient opportunity, Court could proceed to exercise its jurisdiction and keeping in view the spirit of Section 14(4) of TNP Act, Court to pass appropriate speaking order.

24. It is pertinent to note that as against the order passed under Section 14(4) of TNP Act, appeal lies before the Court of Sessions having jurisdiction. For instance let us assume that order of confiscation has been passed by the District Collector or other Prohibition Officer incharge of the District or any other authorised officer. Under Section 14(5) of TNP Act, any person aggrieved by the order of confiscation under Section 14(4) of the Act within one month may appeal to the Court of Sessions having jurisdiction. In such case, where an order of confiscation has been passed, if Magistrate has to pass an order for interim custody, evidently Magistrate would be transgressing upon the powers of the Executive and Sessions Judge. To avoid such situation, in dealing with

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the vehicles involved in a prohibition offence, exercise of powers of the Court under Sections 451 or 457 Criminal Procedure Code should always be with due care and caution.

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28. We deem it fit to issue the following directions:

(1) Whenever seizure of properties involved in the commission of offence under Prohibition Act, exercise of power is not automatic. Court should afford sufficient opportunity to the prosecution to inform the Court about the steps taken by the Investigating Agency. Keeping in view the spirit of Section 14(4) of TNP Act, Court on its own should ascertain whether any confiscation proceedings has been initiated and the stage of confiscation proceedings.

(ii) After affording sufficient opportunity to the prosecution and only after ascertaining about the steps taken for initiation of confiscation proceedings, Court could exercise its discretion under Sections 451 or 457 Criminal Procedure Code Court could judiciously exercise its discretion with due care and caution keeping in view the spirit of Section 14(4) of TNP Act. Exercise of discretion under Sections 451 and 457 Criminal Procedure Code is only after affording sufficient opportunity to the

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prosecution to get instructions. Subordinate Courts are directed to insist the Assistant Public Prosecutor/Public Prosecutor to file written Memo as to the steps taken under Section 14(4) of TNP Act or otherwise could only on receipt of written memo, Court could proceed to exercise its power under Sections 451 or 457 Criminal Procedure Code

(iii) In case if the Court orders interim custody of vehicle, the order should be speaking order recording reasons to order interim custody of the vehicle. In case if the Court orders interim custody of the vehicle, Court should obtain necessary undertaking from the owner of the vehicle to produce the vehicle as and when directed and send copy of undertaking to the District Collector/Prohibition Officer in charge of the District or other authorised Officer in that behalf by the Government along with copy of the order passed by the Court. We direct the Registry to place this order before the Hon'ble Chief Justice for getting approval for being circulated to all the Subordinate Courts in the State of Tamil Nadu.

(15) Therefore, considering the pendency of the confiscation proceedings and having regard to the aforesaid decision, this court does dispose of this criminal revision in such terms as detailed hereunder.

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14. In the result,

(1) that the revision petitioner, if the confiscation proceedings were completed by the authorities under S.14(4) TNP Act, shall be at liberty to challenge the order of such confiscation as under S.14(5) TNP Act,

(2) that the revision respondent, if the confiscation proceedings were not completed by the authorities under S.14(4) TNP Act, shall cause it to be completed within one month from the date of this order strictly in accordance with the law/rules therefor,

(3) that the revision petitioner shall be at liberty to participate in such confiscation proceedings, and

(4) that if the confiscation proceedings are not completed by the authorities under S.14(4) TNP Act within such one month as directed earlier, this criminal revision petition filed by the revision petitioner shall stand allowed, reversing the order dated 01.08.2026 of the Judicial Magistrate III, Tirunelveli, in Crl.MP.No.2972/2026, and allowing the criminal miscellaneous petition in Crl.MP.No.2972/2026 on the file of the Judicial Magistrate III, Tirunelveli, on the conditions,

(i) that the revision petitioner shall execute a bond for a sum of Rs.6,00,000/- with two sureties for the like

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sum each to the satisfaction of the Judicial Magistrate III, Tirunelveli,

(ii) that the revision petitioner shall file into the court of Judicial Magistrate III, Tirunelveli, the photographs showing all the four sides of the vehicle along with the original registration certificate, and

(iii) that the revision petitioner in view of the prayer of 'interim custody', shall execute an undertaking, in the form of an affidavit, before the Judicial Magistrate III, Tirunelveli, to the effect that he shall produce the vehicle, as it is, before the court as and when directed, and

(iv) that the Judicial Magistrate III, Tirunelveli, is hereby directed to hand over the vehicle concerned to the revision petitioner only after the compliance by the revision petitioner of the aforesaid conditions.

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To

1.The Judicial Magistrate No.III,
Tirunelveli

2.The Inspector of Police,
Sivanthipatti Police Station,
Tirunelveli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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B.MURUGESAN, J.

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Pre-Delivery Order made in
CRL.RC.(MD)No.1475 of 2026

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