

**IN THE COURT OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
COIMBATORE.**

Present: **Tmt. G. VIJAYA, B.A., M.L., PGDCFS**
Principal District & Sessions Judge, Coimbatore.

Wednesday, this the 3rd day of June, 2026

(திருவள்ளூர்வராண்டு, 2057, பராபவ ஆண்டு வைகாசி திங்கள் 20-ஆம் நாள் புதன்கிழமை)

Criminal Revision Petition No.12/2026
(CNR No.TNCB010009942026)

R.Ganesh (Age 38)
S/o.Ramasamy,
88, Anaimalaiyamman Kovil Street,
Vellalore,
Coimbatore - 641 111.

... Revision Petitioner / Accused

//vs//

The State represented by
Inspector of Police,
Peelamedu Police Station
Coimbatore.
Crime No.794/2025

... Respondent / Complainant

This Criminal Revision Petition came up on 11-03-2026 and 30-04-2026 before this Court for final hearing in the presence of **Tvl. M.Vetri and S.Murugesan**, Advocates for the revision petitioner / accused and **Thiru.V.Ravichandran, Public Prosecutor**, represented for State and upon hearing both side arguments, perusing the relevant documents and having stood over for consideration till this day, this Court passes the following:-

ORDER

This Criminal Revision Petition has been filed by the Revision Petitioner u/s.438 and 440 of BNSS, praying to set aside the order passed by the learned

Judicial Magistrate No.2, Coimbatore, in C.M.P.No.98/2026, in Crime No.794/2025, dated 07-01-2026, and thereby pass an order to release / interim custody of the vehicle Ashok Leyland Lorry bearing Reg.No.TN 37 CQ 2646 to the revision petitioner.

2. Averments stated in the affidavit in support of the petition filed by the petitioner u/s.497 and 503 of BNSS, before the learned Trial Court are in brief as follows:-

The petitioner is the owner of the petition mentioned vehicle. The respondent police registered a case against the accused for the offence u/s.21(1) of Mines and Minerals (Development & Regulation) Act r/w Sec.303(2) of BNS, alleging that the accused used the petition mentioned vehicle to transport 3 units of gravels and without any valid permission. The said vehicle is now under the custody of the respondent and the same is not yet produced before the learned Judicial Magistrate concerned. The petitioner is no way connected with the above said case. The petitioner has been falsely implicated in this case and his vehicle has been seized without any valid reason. If the petition mentioned vehicle is kept idle in the open place, the value of the vehicle will drastically diminish due to the exposure to incremental weather and lack of maintenance etc. The petitioner and his family are depending upon the income derived from the petition mentioned vehicle. The petitioner undertakes that he will neither sell nor subject it to any alteration. Further the petitioner undertakes that he will

produce the vehicle before the Court as and when required and he is ready to furnish sufficient sureties to the satisfaction of the Court and prays to allow the petition.

3. Before the learned Trial Court, the Prosecution side raised objection not to grant interim custody of the vehicle to the petitioner stating that the petition mentioned property has been used for illegal transport of mines and minerals without proper permission and if the petition mentioned vehicle is handed over to the petitioner, he may commit similar offence by using the vehicle and he will not produce the petition mentioned property as and when required by the Court and there is every possibility for the petitioner to alter or alienate the property.

4. After considering the submissions made by both sides, the learned Trial Judge has dismissed the petition. Aggrieved over the same, the petitioner has filed the present revision petition.

5. **In this criminal revision petition, the following grounds are raised by the revision petitioner:-**

(i) The order in C.M.P.No.98/2026 based on mere apprehension - legally impermissible the learned Magistrate rejected the petition purely on speculative

apprehension of future misuse, which unknown to criminal jurisprudence. Courts cannot deny interim custody of property on the presumption that the accused may commit an offence in future. The settled law that vehicle retention is should not preventive punishment. Seizure and continued detention of a vehicle cannot be used as a preventive measure. Criminal law deals with alleged past conduct, not hypothetical future acts. The reasoning of the learned Magistrate amounts to pre-trial punishment of property, which is impermissible.

(ii) The learned Trial Court, ignoring binding Supreme Court precedent. The learned Magistrate failed to follow the law laid down by the Hon'ble Supreme Court in: **Sunderbhai Ambalal Desai v. State of Gujarat (2002) 10 see 283**. Where in it was held that: vehicles should not be allowed to rot in police custody Courts must ordinarily release vehicles on interim custody Concerns of misuse can be addressed by imposing stringent conditions, not by outright refusal. The impugned order of the learned Judicial Magistrate No.2I Coimbatore is in direct violation of the above binding judgment of Hon'ble Supreme Court.

(iii) The learned Trial Court ignoring consistent view of Hon'ble High Court of Madras. The Hon'ble High Court of Madras, has consistently held in MMDR Act cases that: Mere possibility of re-use of vehicle is not a valid ground to deny interim custody Photographs, identification marks, bonds and

undertakings are sufficient safeguards. It is possible detention of vehicle causes irreparable loss to owner and serves no purpose. But the learned Magistrate ignored these settled principles.

(iv) No finding in the learned Trial Court order that vehicle is required for investigation or trial. The impugned order does not record any finding that the vehicle is required for further investigation, or the vehicle must be produced physically during trial when evidentiary purpose can be served by photographs and mahazar, but continued custody is arbitrary. In the order averment of learned Trial Court allegation that return of vehicle may lead to destruction of evidence is factually baseless. The vehicle nature, registration number and identity of vehicle are already recorded photographs and seizure mahazar are available no further scientific or mechanical examination is pending. Thus, the reasoning to keep vehicle is custody illusory and unsupported by record.

(v) The order of the learned Trial Court causing disproportionate hardship and violation of property rights. The vehicle is a commercial lorry and the petitioner's source of livelihood. The petitioner will be put to severe financial hardship if the vehicle was subjected to continued detention. It leads to rapid depreciation and mechanical damage to vehicle and such deprivation, without adjudication, is arbitrary and disproportionate.

(vi) The learned Judicial Magistrate failed to consider less restrictive alternatives such as execution of produced physically during trial when evidentiary purpose can be served by photographs and mahazar, but continued custody is arbitrary. bond, undertaking for not to use vehicle for mining in future periodic production of vehicle liberty to re-seize in case of violation etc., did not used. Non-consideration of these options vitiates the order and not served any purpose.

(vii) This revision is maintainable as the impugned order suffers from illegality, material irregularity and improper exercise of jurisdiction, attracting revisional powers of this Court. The continued retention of the petitioner's vehicle solely on the apprehension that it may be used for future offences is wholly illegal, arbitrary and unsustainable. The Hon'ble High Court of Madras has consistently held that a vehicle seized under the Mines and Minerals (Development and Regulation) Act can be retained only for evidentiary purposes and that indefinite detention to prevent future offences amounts to pre-trial punishment, which is impermissible in law. The petitioner is placed on the principles laid down by the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat* (2002) 10 see 283, as repeatedly followed by the Hon'ble High Court of Madras in decisions including *Aruppusamy v. State by Inspector of Police* (CrI.R.C.No.1460 of 2023) and *Gopinath v. State of Tamil Nadu* (Cr.R.C.(MD) No. 1190 of 2024), wherein it has been categorically held

that vehicles shall not be kept in prolonged custody on speculative grounds of future misuse. Therefore, the continued detention of the vehicle violates the Constitution Rights and the petitioner is entitled to interim custody of the vehicle.

6. **Point for consideration in this petition is that,**

“Whether the impugned vehicle bearing Reg.No.TN 37 CQ 2646 which was seized by the respondent police / Peelamedu Police in Crime No.794/2025, for the offence u/s.303(2) BNS and Sec.21(1) of Mines & Minerals (Development & Regulation) Act, 1957, is to be returned to the Revision Petitioner as interim custody, or not?”

POINT:-

7. **Heard both sides and perused the relevant records.**

8. The revision petitioner who is the owner of the vehicle bearing Reg.No.TN 37 CQ 2646. Based on the complaint lodged by the Deputy Tahsildar and case has been registered in Crime No.794/2025, for the offence u/s.303(2) BNS and Sec.21(1) of Mines & Minerals (Development & Regulation) Act, 1957. The petitioner has filed a petition in C.M.P.No.98/2026, praying to return the said vehicle to him as interim custody and on 07-01-2026, the learned Judicial Magistrate No.2, Coimbatore, dismissed the said petition.

Against the dismissal order, the petitioner has preferred this criminal revision petition.

9. The learned counsel for the revision petitioner has argued that the revision petitioner is the owner of the petition mentioned vehicle and the petition mentioned vehicle has been seized by the authorities concerned alleging that the said vehicle has been used for illegal transportation of 3 units of gravel sand without valid transit pass. The learned counsel has further argued that if the vehicle is kept idle for some more time without usage, it will loses its identity and its value also gets depreciated and the petitioner is in need of the vehicle for his day to day livelihood and she is ready to abide with any condition and prays to hand over the petition mentioned vehicle to the petitioner as interim custody.

10. The learned Public Prosecutor would argue that, the petition mentioned vehicle was used for transportation of 3 units of gravel sand without valid transit pass. Therefore, the said vehicle has been seized by the concerned authorities. The learned Public Prosecutor has further submitted that as of now, the vehicle has been produced before the Judicial Magistrate concerned and remanded in PR No.3/2026. No previous case is pending against either the petitioner or the vehicle.

11. This Court has given its anxious consideration on the rival submissions of both the parties. According to the petitioner, he is the owner of the petition mentioned vehicle and the said vehicle has been seized and case has been registered in Crime No.794/2025. The petitioner has filed a petition u/s.497 r/w 503 of BNSS, in C.M.P.No.98/2026, praying to return the said vehicle to him as interim custody and on 07-01-2026, the learned Judicial Magistrate No.2, Coimbatore, dismissed the said petition. Against the dismissal order, the petitioner has preferred this criminal revision petition. From the submissions of the learned Public Prosecutor, it is evident that no previous case is attributed against the petitioner. As of now, the petition mentioned vehicle has been produced before the learned Judicial Magistrate concerned and remanded in PR No.3/2026.

12. While perusing the order passed by the learned Magistrate concerned, it appears that the revision petitioner has purchased the petition mentioned vehicle by availing loan and the original RC Book is under the custody of the bank. During the time of enquiry, the revision petitioner has filed an affidavit before this Court admitting the above said fact and the original RC Book is with him and he is ready to produce the original RC Book as and when required by the Court concerned.

13. On perusal of records, it appears that the respondent police registered the case in Crime No.794/2025, for the offence u/s.303(2) BNS and Sec.21(1) of Mines & Minerals (Development & Regulation) Act, 1957, alleging that the petition mentioned vehicle is used to transport 3 units of gravel sand without any valid transit pass. In this connection, the Hon'ble Apex Court in the judgment reported in **2003 SCC (CrI) 1440** in the case between **Sundarabai Ambalal Desai Vs State of Gujarat**, has held that marking the seizure report along with photograph or videograph is sufficient to prove the factum of seizure.

14. Therefore, considering the facts and circumstances of the case, and also considering the fact that keeping the vehicle without maintaining it at the police station or in court premises is not useful to any persons, in view of the dictum laid down by the Hon'ble Supreme Court, this Court is of the considered view that interim custody of the petition mentioned vehicle bearing Reg.No.TN 37 CQ 2646 is to be handed over to the revision petition as it is of no use to keep the seized vehicle idle in the Court or in police station for a long period. From the foregoing circumstances, this Court is of the considered view that the order passed by the learned Judicial Magistrate No.2, Coimbatore in C.M.P.No.98/2026, dated 07-01-2026 is liable to be set aside.

15. Accordingly the order passed by the learned Judicial Magistrate No.2, Coimbatore, in C.M.P.No.98/2026, dated 07-01-2026 is set aside and this Criminal Revision Petition is allowed and the petition mentioned vehicle bearing Reg.No.TN 37 CQ 2646 seized by Peelamedu Police, Coimbatore in Crime No.794/2025 is ordered to be handed over to the revision petitioner as interim custody on the following conditions;

1. The revision petition shall produce the Proof of ownership of the vehicle;
2. The revision petitioner shall take photographs of the vehicle in four angles and hand over it along with the CD to the learned Judicial Magistrate No.2, Coimbatore;
3. The revision petitioner shall execute a bond for a sum of **Rs.50,000/-** **[Rupees Fifty Thousand]** with two sureties for likesum each to the satisfaction of learned Judicial Magistrate No.2, Coimbatore.
4. The revision petitioner shall surrender the original R.C.Book before the learned Judicial Magistrate No.2, Coimbatore, and the learned Judicial Magistrate No.2, Coimbatore, is at liberty to return R.C. book for renewal of the registration or for insuring the vehicle. The R.C. Book can be obtained from the Court by filing a petition and after the accomplishment of the purpose the same should be returned to the Court.
5. The revision petitioner shall also file an affidavit of undertaking to the effect that;
 - (a) He will not alienate the vehicle without obtaining an order from the learned Judicial Magistrate No.2, Coimbatore.
 - (b) He will produce the said vehicle before the Court as and when summoned to produce the same; and
 - (c) No major alteration excepting the necessary repairs to make the vehicle road worthy shall be made.

6. The revision petitioner is also directed to produce the vehicle as and when required by the concerned police.

In the result, the Criminal Revision Petition is allowed and the order in C.M.P.No.98/2026, dated 07-01-2026 passed by the learned Judicial Magistrate No.2, Coimbatore, is hereby set aside and petition mentioned vehicle bearing Reg.No.TN 37 CQ 2646 is ordered to be returned to the Revision petitioner as interim custody on condition enumerated in paragraph No.15 of the order.

This order is dictated to steno-typist directly, typed by her in computer, corrected and pronounced by me, the order in open Court, on this the 3rd day of June, 2026.

PRINCIPAL DISTRICT & SESSIONS JUDGE,
COIMBATORE.

LIST OF WITNESSES EXAMINED ON BOTH SIDES:- NONE

LIST OF DOCUMENTS MARKED ON BOTH SIDES:- NIL

PD & SJ.,
CBE.

Copy to:-

The Judicial Magistrate No.2,
Coimbatore.

//True copy//

Draft order in
C.R.P.No.12/2026
Dated:03-06-2026.