

IN THE COURT OF THE ADDL. SESSIONS JUDGE -IV,
THIRUVANANTHAPURAM
PRESENT : SRL SUDHAKANTH. R, ADDL SESSIONS JUDGE – IV

Tuesday the 21st day of April, 2026/ 1st Vaisakha, 1948

CRIMINAL M.P. No.5370/2025 IN SC.1142/2023

(Crime No.231/2023 of Aryamcode Police Station)

Petitioner/ Accused :-

Julie Thomas, S/o Thomas, aged 41 years,
Ebanezer Puthen Veedu,
Punnamoodu, Mavelikkara P.O, Alappuzha

(By Adv. S. Vaheeda Vahab)

Counter Petitioner :-

State of Kerala represented by Public Prosecutor,
Thiruvananthapuram

(By Adv. R. Praveen Kumar, Addl. Public Prosecutor)

This petition is coming on for hearing on **04.04.2026** and the Court on **21.04.2026** passed the following:-

O R D E R

1. This is an application filed by the registered owner of the car (Maruthi Swift) bearing Registration No. KL-31-G-7545 involved in the above numbered case and filed under Section 497 of the BNSS.
2. The petition averments are as follows:

The petitioner is the registered owner of the motor car bearing Registration No. KL-31-G-7545 . The above car is allegedly involved in the offence and taken into custody by the police and produced and received in Court as item 8 in TR 120/2023. The offence alleged have been committed by the accused is under S.20(b)(ii)(B) of NDPS Act, 1985. Petitioner is entitled to get interim custody of the above vehicle. Petitioner is ready to abide any condition imposed by the court in the event of granting custody. The above motor car is not involved in any other offence. Therefore the application may be allowed and the interim custody of the vehicle may be given to the petitioner.

3. Perused the case records and heard both sides.
4. Admittedly the petitioner is not arrayed as an accused in the above case. The learned Public Prosecutor opposed the application on the ground that if the vehicle is given in interim custody, there is every chance of using the vehicle for committing the similar offence. It is further contented that the confiscation proceedings have already been initiated and as such no interim custody can be granted. On the other hand, the learned counsel for the petitioner submitted that the prosecution has no case that the petitioner is having any privy to the alleged offence. According to the learned counsel for the petitioner even if the prosecution allegations are assumed to be genuine, the prosecution has no case that the petitioner had intentionally given the vehicle for transporting the contraband. According to the learned counsel for the petitioner if the vehicle is kept idle in the open

premises of the police station, its value and utility will be deteriorated.

5. On the basis of the rival contentions of the parties, the prime point to be considered is Whether the court can entertain an application for interim custody of the vehicle produced before the court, against which the confiscation proceedings have been initiated by the authorized authority under the provisions of NDPS Act. Admittedly the petitioner is the registered owner of the vehicle. He has produced the original of Registration Certificate along with attested true copy to prove the same. The prosecution has no case that the petitioner had given the vehicle to the accused persons knowing that they are about to use the vehicle for committing the alleged offence. It is true that if the vehicle is kept in the open premises, the value and utility will be diminished. In the decision in ***Sameesh v. State of Kerala*** reported in ***2023 Supreme (Online) (KER) 18515*** it has been held *“Having found the jurisdictional courts to be having the power to grant interim custody, the ancillary question is whether such power is to be exercised under Section 451 or 457 of the Code. Section 451 will be applicable when a property, which includes seized vehicles, is produced before a criminal court during inquiry or trial. As regards conveyances seized in connection with offences under the NDPS Act, Section 52A only provides for preparation of inventory containing details of the conveyance relevant for its identification and the making of an application to the Magistrate for certifying the correctness of the inventory. The seized vehicles are not produced before the Magistrate, upon which alone an order for interim custody*

under Section 451 can be issued. On the other hand, the power under Section 457 can be exercised with respect to a property, which is not produced before the court, but the seizure of which is reported. The above discussion leads me to the conclusion that the jurisdictional courts have the power to grant interim custody under section 457 Cr.P.C, irrespective of the procedure for disposal stipulated in Section 52A of the Act”.

6. In the present case, the vehicle, allegedly used as a sort of conveyance of the contraband is produced before the court and same is entrusted to the police for safe custody. The special court under the NDPS Act are authorized to release the vehicle on terms and conditions to be determined by the court. The petitioner is the registered owner of the motor car and he had not participated in the offence as alleged by the prosecution.
7. Section 60(3) of the NDPS Act provides that any animal or conveyance used in carrying any narcotic drug or psychotropic substance or controlled substance shall be liable to be confiscated unless the owner of the animal or conveyance proves that it was used without his knowledge or connivance and that he had taken all reasonable precautions against such use. The provisions of Section 63 NDPS Act empowers the court to confiscate the vehicle involved in NDPS Act, whether the accused is convicted or acquitted or discharged. There is no bar in handing over the interim custody of the animal or the conveyance to the registered owner on conditions as imposed by the court. Considering the above said facts, in the light of the principles embodied in the above said decision, this court

is of the considered view that the interim custody of the vehicle can be given to the petitioner, on conditions.

In the result, the applications is allowed on the following terms :

- 1 Execute bond for **Rs. 5,00,000/-** with 2 solvent sureties each for the like sum.
- 2 The petitioner shall produce the photographs and memory card containing the images of the vehicle in different dimensions in the court before executing the bond.
- 3 The petitioner shall not alter, alienate or diminish the value of the vehicle till the disposal of this case.
- 4 The petitioner shall produce the vehicle as and when required by the court.
- 5 The petitioner shall see that car (Maruthi Swift) bearing Registration No. KL-31-G-7545 shall not involved in similar offence once released to his interim custody, failing which the bond will be forfeited and cancelled.
- 6 Petitioner shall reproduce the vehicle before the court as and when directed.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in the open court on this the 21st day of April, 2026)

Sd/

SUDHAKANTH. R
ADDL. SESSIONS JUDGE-IV

// True Copy//

By Order
Sd/-

Copy of Order in
Crl. M.P.No.5/2026 in SC 578/2026
Dated: 21.04.2026