

**IN THE COURT OF THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ANNUR.**

**Present: Tr.K.Vignesh, B.A., L.L.B.,
District Munsif Cum Judicial Magistrate (FAC), Annur.**

**Crl.M.P.No.197/2026
in
Cr.No. 0268/2026**

On this Friday, the 19th day of June, 2026.

V.Karthik Kumar (28) S/o. Vellingiri,
No.5/57, Iyyapanayakanpalayam,
Alathur, Tiruppur – 641 655.

... Petitioner/Accused No.2

/Vs/

State rep by
The Inspector of Police,
Annur Police Station, Coimbatore.
Cr.No.0268/2026 (u/s.303(2) of BNS Act
r/w 21(4) of MMDR Act)

... Respondent/Complainant Police

This petition for return of the interim custody of the case property, i.e., **BHARAT BENZ 1926C BSVI 4X2 YELLOW Tipper Lorry** was filed by the Petitioner/Accused No.2, is coming before this court for final hearing in the presence of learned Advocate Mr.K.Manojpandi for the Petitioner/ Accused No.2 and Mr.Akbar Raja, the learned A.P.P. Grade – I, appearing for the prosecution and after perusing the petition and the records of the case, having stood over for consideration of this court till this day, this Court delivers the following:

ORDER

This petition was filed under section of 497 r/w 503 BNSS., for seeking the relief of interim custody of the petition mentioned case property, i.e., **BHARAT BENZ 1926C BSVI 4X2 YELLOW Tipper Lorry** bearing registration number **TN 39 DW 8458**,

which was seized by the respondent police in Crime No.268/2026 of Annur Police Station.

2.The Brief Averments in petition:

This Petition was filed by the Petitioner/Owner of the property, u/s. 497 r/w 503 of BNSS for interim custody of the property – **BHARAT BENZ 1926C BSVI 4X2 YELLOW Tipper Lorry** bearing registration number **TN 39 DW 8458**, which was seized by the respondent police from the accused and registered an FIR under section u/s.303(2) of BNS Act r/w 21(4) of MMDR Act in Annur Police Station Crime No.268/2026. The petitioner counsel contended that if the petition mentioned property - **BHARAT BENZ 1926C BSVI 4X2 YELLOW Tipper Lorry** is kept under the custody of the court or police for long time without maintenance, the Value of the vehicle get deteriorated and it will become obsolete to anybody. The petitioner counsel also stated that the petitioner undertakes to submit the sureties and abide by the conditions that are all imposed by the Hon'ble Court and prayed to grant the interim custody of the petition mentioned property to its owner, the petitioner till disposal of the case.

3. Notice issued to learned A.P.P and the respondent police and their reply received. The Respondent police replied that the investigation is still pending and if the property handed over to the petitioner, he will not hand it over during the court hearing and. In the APP reply, he has no objection to handover the property on opt condition deem fit.

4. Point for Consideration : Whether the petitioner is entitled to interim custody of petition mentioned property ?

Heard rival submissions of both sides. Respondent Police submitted that petition mentioned property was found with three unit of gravel without valid permit. Hence the respondent police have seized the petition mentioned property for the offence under

section 21(1) of Mines & Minerals(D&R) Act, 303(2) of BNS. Hence the petitioner has filed this present petition seeking interim custody of petition mentioned property.

The Hon'ble High Court of Madras in the case of Annadurai Vs Inspector of Police Kurisilapet Police Station (Crl.O.P.No. 646 of 2024 dated 29.01.2024) held as follows,

(a) The power to initiate confiscation proceedings and issue directions for release/disposal of the property under section 21(4-A) of the MMDR Act, 1957 lies with the Court and not with any other authority.

(b) Section 21(4-A) expressly states that the Court competent to initiate confiscation proceedings and issue directions of disposal of the seized material is the court competent to take cognizance of the under section 21(1) of the Act.

(c) The Special Court constituted under section 30- B of the MMDR Act, 1957 is invested with the powers of a court of Session under section 30-C. Consequently, the Special Court being a Court of Sessions cannot directly take cognizance of an offence under the act in view of the bar contained in section 193 Cr.P.C. and in the light of las laid down in paragraph 38 of the decision in Pradeep S. Wodeyar v. State of Karnataka, (2021) 19 SCC 62 ;

As held in the above Judgment, there is no bar to entertain the return of property application by this court, particularly in sand theft cases.

Further with regard to return vehicles, the Hon'ble Supreme Court of India held in **Sundarbhai Ambalal Desai Vs. State of Gujarat (2002) 10 SCC 283**, that the seized vehicle should not be kept in police station for long duration as they deteriorated and loss value over time. In the light of above said decisions of Hon'ble Apex Court and also the

petitioner is ready to obey the conditions to be imposed on him, this court is inclined to return the property on interim custody, to the petitioner in the interest of justice with the following conditions,

- (i) The petitioner shall deposit Rs.10,000/- as non – refundable to the Mines Minerals Department Account 0853 Non Ferrous Mining Metallurgical Industries 00 Non Ferrous Mining and Miscellaneous Receipts 22997 – Fines and Penalties - Forfeiture, Seizure, Confiscation, Etc, D.P.Code No.0853-00-107-AJ-22997 Maintained by the Government of TamilNadu through E.Challan.
- (ii) The petitioner shall execute a personal bond of Rs.10,00,000/- to the satisfaction of this court.
- (iii) The petitioner shall furnish two sureties each for a sum of Rs.5,00,000/- to the satisfaction of this court.
- (iv) The petitioner shall submit Photographs of the case property together with U/s.63 Bharatiya Sakshya Adhiniyam certificate.
- (v) The petitioner shall produce Original RC Book before this Court. The petitioner should not alter or assign, tamper the case property.
- (vi) While returning the property to the petitioner, the respondent police shall write the crime number of the case on the side of vehicle for the purpose of monitoring the vehicles and prevent the same kind of offence in future.
- (vii) The petitioner shall produce the above property as and when required by this court and during trial. The Petitioner shall produce the vehicle before confiscation authority as and when require.
- (viii) The panchanama should be prepared for the property.

Dictated to the Steno-Typist and typed by her, corrected and pronounced by me in open court on this 19th day of June, 2026.

District Munsif Cum Judicial Magistrate (FAC),
Annur.