

IN THE COURT OF JUDICIAL MAGISTRATE, HARUR

Proceeded by **Mr. DHINAKARAN.N**, Judicial Magistrate, Harur.

Friday the 12th day of June 2026

Crl.M.P. No. 323/2026

Babu, (Age: 65 years), S/o. Bavaji,
Residing at No. 45A, Pachanampatti Village,
Doddampatti Post, Harur Taluk, Dharmapuri District.

... Petitioner / Owner of the Vehicle

-Vs-

State represented by:

The Special Sub-Inspector of Police,
Harur Police Station.

(Crime No. 192/2026)

... Respondent / Complainant

For Petitioner : Mr. E. Thavamani, Advocate,

For Respondent : Mr. M. Jagadeesan, Gr.II APP

This petition taken on file on 26.05.2026 and coming up for the final hearing today. Upon perusal of records, this court delivers the following.

ORDER

1. This is a petition filed by the Petitioner/Owner of the vehicle under Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The Petitioner

prays this Court to direct the Respondent to produce the vehicle, a Maruti Suzuki Celerio (Tour H2) Motor Car bearing Registration No. TN-66-AD-3920, before this Court and subsequently release the same to the Petitioner by way of interim custody.

2. The factual matrix of the Petitioner's case, as set out in his supporting criminal miscellaneous petition and affidavit, reveals that on 28.02.2026, at approximately 20:15 hours, near the Harur Four Road junction, a police team consisting of Special Sub-Inspectors Mr. Dharman, Mr. Murugan, and Head Constable Mr. Anand intercepted the vehicle in question. Upon conducting a thorough search of the car, the officers discovered 20 bottles of TASMAC Diamond Liquor and 20 bottles of Monitor Brandy, each of 180ml capacity, which were allegedly being transported illicitly for retail sale without any government authorization or permission.
3. Consequently, a case was registered under Crime No. 192/2026 for an offence under Section 4(1)(C) of the Tamil Nadu Prohibition Act, 1937 against the driver-cum-owner, Babu. The learned Counsel for the Petitioner submits that the Petitioner is the absolute registered owner of the vehicle and requires it for his daily livelihood. He further argues that keeping the vehicle parked in the open elements at the police station yard will result in severe structural decay and natural depreciation, and the Petitioner explicitly undertakes to abide by any stringent conditions imposed by this Court.
4. The learned Assistant Public Prosecutor (APP) filed a detailed written memo vehemently objecting to the application. It is submitted by the prosecution that

the vehicle in question has neither been produced nor numbered before this Court because statutory confiscation proceedings have already been actively initiated. According to the official show-cause notice issued by the police department, the competent executive authority, namely the Additional Superintendent of Police (ADSP), Headquarters, Dharmapuri District, has taken legal custody of the matter for confiscation under Section 14(4) of the Tamil Nadu Prohibition Act, 1937.

5. A formal Explanation-Seeking Show-Cause Notice vide C.No. 33/CONF/ADSP/HQ/DPI/2026 dated 26.05.2026 has already been issued to the vehicle owner as well as the financier, M/s. Chola mandalam Investment & Finance Company Ltd., granting them 14 days to submit their explanations against the proposed state confiscation.
6. The core issue falling for consideration is whether this Court can exercise its discretionary jurisdiction to grant interim custody of a vehicle under the BNSS when the asset has not been produced before the Court and formal confiscation proceedings have already been launched by the Executive under Section 14(4) of the Tamil Nadu Prohibition Act, 1937.
7. The jurisdictional boundary regarding the disposal of property involved in prohibition offences has been clearly delineated by the Hon'ble Madras High Court in the landmark ruling titled *David v. Shakthivel, Inspector of Police-Cum-Station House Officer* (reported in 2010 MLJ CrI 1929 / 2010 LW Cri 1 129).

8. In the aforementioned David's case (Supra), the Hon'ble High court formulated strict operational guidelines for the Subordinate Judiciary when addressing the intersection of central procedural laws and Section 14(4) of the Tamil Nadu Prohibition Act, 1937. The Hon'ble High Court explicitly ruled that whenever a vehicle is seized under the Prohibition Act, the exercise of power to grant interim custody by a Magistrate is not automatic.
9. The Subordinate Courts must insist that the Assistant Public Prosecutor file a written memo specifying whether any confiscation proceedings have been initiated. If the court finds that confiscation proceedings have been initiated by the authorized Prohibition Officer, the Magistrate must exercise extreme care and caution and respect the punitive and deterrent spirit of Section 14(4), as passing automatic release orders would render the executive's statutory powers a dead letter.
10. Furthermore, under Section 14(5) of the Tamil Nadu Prohibition Act, an appeal against a final confiscation order lies exclusively before the Court of Sessions. If a Magistrate bypasses this framework to pass an interim release order, it would amount to an unwarranted transgression into executive powers and the appellate domain of the Sessions Judge.
11. Applying the principles established in the David case (Supra) to the factual matrix presented in the case records and the police notice, it is evident that the property has not been produced or numbered before this Court, stripping this forum of physical custody over the asset. The Pro Wing ADSP, Headquarters, Dharmapuri, has already assumed valid jurisdiction under Section 14(4) of the

Tamil Nadu Prohibition Act, 1937 and issued a formal show-cause notice dated 26.05.2026.

12. The applicant has an alternative, highly efficacious remedy to appear directly before the confiscating authority and present his case along with valid title and finance documentation. Allowing this petition at this stage would trigger an unnecessary conflict of jurisdictions between this Court and the Executive Authority, directly violating the mandatory procedural directives issued in the David's Case (Supra).
13. In light of the factual circumstances this Court refrains from exercising its discretionary powers under Section 497 of the BNSS. Consequently, the Criminal Miscellaneous Petition is hereby dismissed.

Pronounced by me in open court, this the 12th day of June, 2026.

Judicial Magistrate, Harur.