

IN THE COURT OF THE JUDICIAL MAGISTRATE No.I, METTUR

Present : N.Gopalakrishnan, B.Sc, B.L., Judicial Magistrate No.I, Mettur.

Thursday, 02nd day of July, 2026

Crl.M.P. No. 536 of 2026

CNR No.TNSA180014662026

Gnanaprakash, (39),

S/o. Sekar

.... **Petitioner / Accused**

//Vs//

The sub Inspector of Police,

Kolathur P.S. in **Cr.No.123/2026**,

u/s.303(2) of BNS r/w 21(1) MMDR Act. Respondent / Complainant

ORDER

1. The Petitioner had filed the petition U/s.497 of BNSS to handed over his/her **Ford 3600 Tractor Compressor vehicle TN 28 Y 3047** received by this Court in **CP.No.35/2026** on interim custody.
2. The respondent in their reply submitted that the petition for interim custody of the vehicle is vehemently opposed the grant of interim custody to the accused carries a substantial risk that the vehicle will be used once again to commit similar offences (recurrence of offence). Furthermore, there is a legitimate apprehension that the accused may alienate the vehicle to a third party, thereby jeopardising its production during the course of the trial. Further it is also submitted that they are proceeding to confiscate the vehicle as per law. Therefore, the application merits dismissal.
3. Both side heard. Records perused.

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4. It is seen that the ownership of the property not denied and sufficiently proved by the petitioner by producing the registration certificate. Further, it is true that as the property kept unused for a long period, it may become faulty and the value of the property will be reduced significantly. It is also pertinent to note that the property is most needed for the petitioner's day-to-day use and the day-to-day earnings for his livelihood.
5. Upon reviewing the contentions from both sides, this court finds it highly pertinent to cite the judgment of our Honorable Madras High Court in the case of **Annadurai v. State, Crl.O.P.Nos.646, 661, 668, 681 & 1146 of 2024**. In this case, our Honorable High Court has comprehensively summarized the legal position 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; Further, it is specifically held that an application for release of vehicle will lie only before the jurisdictional Magistrate;

OTHER RELEVANT FACTS

6. In the present case, it is evident that no complaint has been filed by the police or by the authorised officer under **Section 223(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023** read with **Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957**. In the absence of such a complaint, this Court is not competent to take cognizance of the offence under Section 21(1) of the Act.
7. Furthermore, in the present case, no separate petition has been filed as of

now for the confiscation of the seized properties. Even if such a petition were filed, this Court is of the view that handing over the seized vehicles to the petitioner, subject to appropriate conditions to reproduce the same, would not cause prejudice to anyone until such an order is passed.

8. Further, this Court is of the opinion that under these circumstances, where the said proceedings have not been initiated, keeping the subject case property idle at the police station, exposed to sun and rain, until the conclusion of the proceedings, would serve no useful purpose to anyone.
9. Moreover, in the absence of valid reasons, a fair decision regarding the confiscation of the seized vehicles can be arrived at only after a full-fledged trial based on complete evidence.
10. Therefore, for the present, in the absence of a separate complaint under the Special Act and without any separate petition for confiscation being filed, this Court is of the considered opinion that keeping the subject case property in the custody of the court would not be in the interest of justice.

Considering the facts and circumstances of the case and the principles laid down by the Honourable Supreme Court of India in **Sundarbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175]**, this Court believes that the Court is of the opinion that it would be just and proper to handover the above said **Ford 3600 Tractor Compressor vehicle TN 28 Y 3047** to the Petitioner under interim custody on the following conditions:-

- (a) The petitioner shall in person shall execute a bond for a sum of **₹1,00,000/- (Rupees One Lakh only)** with two sureties for the like sum,

to the satisfaction of this Court, for the interim release and production of the **Ford 3600 Tractor Compressor vehicle TN 28 Y 3047.**

- (b) The petitioner and the sureties shall produce valid proof of identity issued by a government authority. The sureties shall further produce documentary proof, such as a property tax receipt, bank statement, property document, solvency certificate, or any other statutorily recognised document, evidencing their sufficient means to stand as sureties for the said amount.
- (c) **The petitioner shall surrender the original Registration Certificates of the aforesaid vehicles, which shall be retained in the custody of this Court until further orders.**
- (d) The petitioner shall cause colour photographs of the aforesaid properties to be taken from all possible angles. Two printed copies of the said photographs shall be produced before this Court, along with a digital copy recorded in a CD / DVD / Pen Drive. One set of the printed photographs shall be retained with the Court records, and the other set shall be kept in the case diary maintained by the respondent.
- (e) **It is directed to physically verify the said properties with due care and caution and to compare them with the photographs produced. After verification, this Court shall make an endorsement on the reverse side of each photograph stating —**

“Compared and verified with the original; true photograph of the property produced,”

which shall be signed by this Court, Concerned Head Clerk and countersigned by the petitioner and the respondent.

- (f) The Head Clerk shall further prepare a **Panchanama** containing all identifying and specific details of the properties in **Judicial Form No.82** as prescribed under the **Criminal Rules of Practice, 2019**, and shall annex the same with the certified photographs.
- (g) The petitioner shall not sell, pledge, transfer, or otherwise encumber the said properties in any manner whatsoever.
- (h) The petitioner shall not alter the structure, form, or colour of the properties and shall maintain them in good working condition.
- (i) The petitioner shall produce the properties before this Court as and when required. The petitioner shall not use the said properties for any unlawful or illegal purpose.

Directly dictated to Steno Typist, typed by him in the Computer and corrected by me and pronounced by me in open court on **02nd day of July 2026**.

Judicial Magistrate No.I, Mettur.