

.IN THE COURT OF JUDICIAL MAGISTRATE AT ANDIPATT

Present: Thiru.H.Fazil Mohamed B.B.A, LL.B (Hons)

Judicial Magistrate Andipatti

On this 10th day of July 2026

Crl. M.P.No.1582/2026

In

R.P.R.No.175/2026

Premkumar S/o.Thamilarasan

...Petitioner/Owner of the property

- Vs -

The State rep. by Inspector of Police,

G.Vilaku Police Station

Crime No.231/2026

U/s.303(2), BNS &

21(4) of the MMDR Act

...Respondent/ Complainant

This petition came up for a final hearing before me today. Upon hearing the arguments of both sides and upon perusing the documents and having stood over for consideration till this day, this court delivers the following

ORDER

1. The Petitioner has filed this Petition Under Section 497 of B.N.S.S. praying to return the case property **TN 88 L 3831 Goods Carrier Tipper Lorry** to the petitioner on interim custody. The Respondent was issued notice. The respondent police filed a reply by opposing granting interim custody of the said vehicle to the Petitioner.
2. Heard the Learned Counsel for the Petitioner and the Learned Public Prosecutor.
3. The case property vehicle **TN 88 L 3831 Goods Carrier Tipper Lorry** is alleged to have been involved in the commission of

offence U/s.303(2) BNS & 21(4) of the MMDR Act.

4. The learned counsel for the Petitioner in his arguments submitted that the said vehicle was seized by the respondent police in the above Crime No.231/2026 and the said property was produced before the concerned Court in RPR No.175 of 2026 dated 01.07.2026 and The petitioner submits that said vehicle has been kept in the open place and in the idol stage, and it may lose its own value. The petitioner is the owner of the property, he prays for the interim custody of the property.
5. The learned counsel for the respondent opposed granting interim custody of the said vehicles to the Petitioner by stating that the respondent replied that if the vehicles are returned to the petitioner, he will sell the vehicle and thereby cause disturbance in the proceedings of the case.
6. As Per Judgment of Hon'ble Madras High Court in **Annadurai vs Inspector of Police, reported in 2024 – 1 MLT CrI.426 para -30**
“(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 for the disposal of the seized material is the court competent to take cognizance of the offence 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 Session 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 the law laid down in paragraph 38 of the decision in Pradeep S. Wodeyar v. State of Karnataka. (supra);

(d) As a consequence, a complaint under Section 21 of the MMDR Act, 1957 can be filed only before the jurisdictional Magistrate empowered to take cognizance of the offence (State (NCT of Delhi) v. Sanjay, (supra), Kanwar Pal Singh v. State of U.P. (supra) and Jayant v. State of M.P. (supra), and not before the Special Court;

(e) Ex-consequenti, the Court for the purposes of Section 21 (4-A) is the Court of Magistrate since it is that Court which is empowered to take cognizance of the offences under Section 21(1). Hence, an application for release of vehicle will lie only before the jurisdictional Magistrate.

7. No doubt it is a matter of common sense that if the vehicle is kept in idle, it will become useless in due course. In order to avoid such a situation Hon'ble Supreme Court has granted guideline in the above ruling cited in returning the vehicle on interim custody. Therefore this court has power to grant interim custody
8. This court considered the rival submissions made by both sides and the petitioner filed a memo undertaking to deposit Rs 25,000/- and the petitioner/owner has undertaken that he will not alienate or transfer the vehicle pending disposal of the case, and further undertakes to return the vehicle to the Court's whenever required. considering the nature of the property this Court is of the opinion that interim custody of the vehicle may be granted to the petitioner. Accordingly, this Court is inclined to release the vehicle to the

petitioner in interim custody.

9. In this result, the petition is allowed and the office is directed to return the vehicle **TN 88 L 3831 Goods Carrier Tipper Lorry** to the petitioner in Interim Custody on the following conditions:

- i. The petitioner shall execute a bond for sum of Rs.10,00,000/- (Rupees Ten lakhs only) or purchase value of vehicle with two sureties each.
- ii. The petitioner shall deposit original RC book of the said vehicle to this court .
- iii. The petitioner shall deposit a sum of Rupees 25,000/- as in this Crime No.231/2026 in CRCDD Account.
- iv. The petitioner shall not alienate or encumber the property, and he will not change the physical appearance of the vehicle till the final disposal of the case.
- v. A detailed Panchama is to be prepared.
- vi. The property shall be photographed and photographs and the Pendrive (along with 63 BSA Certificate) shall be attached with the Form 95. The photographs shall be duly attested by the petitioner, and the head clerk of this court.
- vii. The petitioner shall produce the vehicle whenever required and shall cooperate confiscation proceedings if any taken in future by prosecution.

This order is dictated to Steno-typist, typed by her in Computer, corrected and pronounced by me in the open court on this the 10th day of July 2026

Judicial Magistrate
Aundipatti