

**In the Court of the Additional District Judge / Presiding Officer,
Special Court Under Essential Commodities Act, Thanjavur**

Present: Tmt. A. Deepa, B.A., M.L.,
(Sessions Judge, Mahalir Neethimandram, Thanjavur)
Additional District Judge/Presiding Officer
Special Court under Essential Commodities
Act, Thanjavur(FAC)

Friday, the 17th day of July 2026
(*Thiruvalluvarandu 2057 Paraabava Varudam Aadi Thingal 1st day*)

Criminal Miscellaneous Petition No.4138 of 2026
(CNR No.TNTJ010086722025)

Balamurugan, 43 S/o.Pazhanivel, No.14/8, Vinaya Nagar, Thippichettipalayam, Bavani, Erode.	...	Petitioner / owner /3rd party
	VS	
State represented by the Inspector of Police, Thanjavur Town police station, Cr.No.233/2026	...	Respondent/Complainant

This Criminal Miscellaneous Petition came up for final hearing before this Court in the presence of Thiru.S.Dravidan, Advocate for the petitioner/owner of the vehicle and Thiru.G.Sudhakar, Special Public Prosecutor appearing for the Respondent, on hearing both, as well on perusing the material records and having stood over for consideration till this day, this Court delivers the following:

ORDER

1. Petition filed by the owner of the truck and the goods stored therein for the return of those products and vehicles, for the interim custody u/s.497 & 503(2) of BNSS.

2. Petition Averments:

The petitioner is the owner of the vehicle as well the goods loaded therein. The truck or the container with the Reg.No.TN.70-AF-8391 loaded with noodles and malasa products with the invoice and E-way bills has been seized and produced before this court pertaining to Cr.No.233/2026 registered by the respondent police. The vehicle as well the loaded goods are now lying at the police station, which would degrade the perishable foods being noodles and masala products as well the vehicle. This petitioner is not connected with the offence and the products now sought to be returned on interim custody were never used for the commission of offence as alleged by the respondent. This petitioner is ready to abide by any condition which would be imposed by this court and therefore, prays that the respondent be ordered to produce the vehicle and goods before this court and then an order be passed for the return of the vehicle and goods to the petitioner herein. Hence, this petition.

3. Averments in the reply submitted by the respondent / police :

The vehicle is registered in the name of Sri Balamurugan transport, the container lorry was intercepted and the person who drove the vehicle by name Rajeshkanna was found to be in possession of 15.533 kgs of ganja, in packets within a shoulder bag carried by him. The said person voluntarily confessed to the commission of the offence of being in possession of ganja and this case

was registered against him and the vehicle driven by him and as well the goods loaded in the said container were seized. The petitioner has not provided any details regarding the handing over of the vehicle to the accused and it is now needed to know whether there is any connection between the present petitioner and the accused in transporting the ganja. If the goods are returned he may abscond and will not produce the same during trial. Hence, this petition is to be dismissed.

4. Point for consideration:

- i. Whether the prayer of the petitioner seeking the return of the vehicle and the goods therein is to be granted?*

Considering the submissions made and as well the available material records this court orders follows:

5. The petitioner is a 3rd party and the owner of the TATA container with the Reg.No.TN.70-AF-8391 and as well the malasa products, noodles stocked inside the said container. This petitioner seeks interim custody of the vehicle and the goods, contending that without his knowledge the vehicle which was driven by Rajeshkanna from Odisha carrying the goods, had diverted to Thanjavur instead of proceeding to Coimbatore wherein the driver was arrested for being in possession of ganja. The petitioner nor the vehicle as well the goods were utilized or was involved in the commission of the offence as

alleged by the respondent and the relevant invoice, E-way bills are placed for interim custody, as the goods have an expiry date and these products are perishable, if not returned to the petitioner it would cause undue loss to the petitioner.

6. The respondent on the other hand contended that to know the connection between the present petitioner and the accused Rajeshkanna, as well the reason why the container lorry travelled to Thanjavur, opposed the return of the vehicle and goods on interim custody to the petitioner herein.
7. The petitioner is a 3rd party and he is running the business wherein his vehicle the TATA container with the Reg.No.TN.70-AF-8391 was transporting the noodles and masala products evidenced by the E-way bill and the invoices. When perusing the invoices and the E-way bills, the products were despatched from Odisha to Coimbatore. The petitioner had no knowledge about the vehicle diversion to Thanjavur and the driver who had driven the vehicle alone was said to be in possession of ganja in packets, carrying them in a bag separately. The other products, noodles and masala products were transported and loaded in the container and these products are not in the picture.
8. Apex court as on 27.10.2025 in ***Denash .Vs. State of Tamilnadu*** reported in ***2025 INSC 1258 : 2025 Livelaw (SC) 1032*** has answered a central question

whether the Drug Disposal Committee mandate the diversion of the powers of the Special court to grant interim custody of the seized vehicles under NDPS Act invoking the Code of Criminal Procedure/BNSS. The Apex court applying the framework from Bishwajit Dey and as well the precedents and authorities earlier, concluded that the Special courts have the power to entertain and decide interim custody applications for seized conveyances regardless of the rules. Further, in the said judgment a practical guidance has been provided for the trial courts when an application is filed seeking interim custody of NDPS seized conveyance. Therefore, the present application indeed is maintainable and this court has the power to entertain the plea of the petitioner.

9. As per the guidelines provided by Apex court, the ownership must be verified, secondly, the court must verify whether the petitioner is the owner of the vehicle is arrayed as an accused and there are allegations of knowledge/connivance. Thirdly, the court must assess the owner's prima facie defence of absence of knowledge/connivance, applying section 60(3) of NDPS Act. Thereafter the inventory has to be taken and preserve the evidentiary value, impose certain conditions, thereby a balance is to be brought in thereby protecting the bonafide property rights and as well preserving the integrity of evidence and the possibility of ultimate confiscation upon trial conclusion.

10. In the present case, the petitioner indeed is the owner of the vehicle evident under the records submitted and as well affirmed by the prosecution. The owner has legitimately used the container for the consignment of goods, noodles and masala products which is also evidenced by the invoices and E-way bills. Only after the driver of the container was arrested and the owner was intimated he had the knowledge that the driver was carrying ganja in packets placed in a bag. Further, as per Sec.60(3) NDPS the owner has to prove that the conveyance was used without his knowledge or connivance, and only then the vehicle and the goods can be confiscated, which could only be done after trial. Only during trial the owner has every opportunity to prove his innocence and that he had no role to play in the transport of the ganja by the driver in a bag.

11. Moreover, the products loaded in the lorry/container are perishable goods which have an expiry date and which has to be sold so that it would not cause any loss. The petitioner cannot incur any loss because of a fault done by the driver of the container and considering these aspects, this court orders the interim custody of the vehicle i.e. container as well the products to the petitioner herein. These products are perishable and cannot be produced again later point of time during trial.

12. Moreover as per the directions of Hon'ble High Court, the Judicial Magistrate, Fast Track Court, Thanjavur who is the nominated Judicial Magistrate in this district is directed to certify the correctness of the inventory so prepared by the Seizing Officer and permitted to take photographs of the seized vehicle and to certify such photographs as true as provided u/s 52(A)(2) of NDPS Act. If already this exercise has been carried out, the property received in this court as NDCP No.43/2026, this court is inclined to return the property to the petitioner on interim custody with the following conditions:

- i. The petitioner is to execute a bond for Rs.10,00,000/- to the satisfaction of this court with two sureties each for a like sum and to produce the container lorry on 1st working day of English Calendar month through Video conference.
- ii. That the petitioner shall not dispose off the container lorry or encumber it or allow any 3rd party to use the vehicle, till the disposal of this case.
- iii. That the petitioner shall not alter the colour and model of the above said vehicle and to submit two set of photos with the engine and chassis number visible in the said photo
- iv. That the petitioner should produce the Original R.C. Book of the above said vehicle to this court.

- v. That the noodles and masala products being perishable the petitioner is to submit a security deposit of Rs.3 lakhs in this crime number, if the inventory has been carried out and the pictures are submitted. On disposal of the case and depending on the result and final order made therein, he is entitled to get back the deposit made for the perishable goods now returned.

Dictated to the Steno typist, transcribed and typed by her, corrected and pronounced by me in open court on this the 17th day of July 2026.

Additional District Judge/Presiding Officer,
Special Court under E.C. Act, Thanjavur.(FAC)