

In the Court of the Principal Sessions Judge, Villupuram

**Present : Thiru.A. Manimozhi, B.A., LL.B.,
Principal Sessions Judge, Villupuram.**

Tuesday, the 17th day of March 2026

CrI.R.P.No.44/2025

(CNR No.TNVP01-006836-2025)

.....

Kabilan,
S/o. Murugesan

... Revision Petitioner/
Vehicle Owner/
Petitioner.

/Vs/

The State represented by
Villupuram P.E.Wing Police Station,
Cr.No.342/2025.

... Respondent/
Complainant.

On revision against the order passed by the learned Judicial Magistrate,

Vikravandi in CrI.M.P.No.1184/2025 dated 26.11.2025.

Parties before the Lower Court

Kabilan,
S/o. Murugesan

... Petitioner.

/Vs/

The State represented by
Villupuram P.E.Wing Police Station,
Cr.No.342/2025.

... Complainant.

This Criminal Revision **e-Petition** coming on 16.03.2026 before me for final hearing in the presence of Tr.M.Muralitharan, Advocate appearing for the Revision Petitioner and of Thiru.T.S.Subramanian, Public Prosecutor appearing for the Respondent and upon hearing the arguments of both sides and upon perusing the order of the trial court and records and having stood over for consideration till this day, this court delivers the following...

ORDER

This Criminal Revision e-Petition has been filed by the Revision Petitioner under Sections 438 and 440 of B.N.S.S., praying to set aside the order passed by the learned Judicial Magistrate, Vikravandi in CrI.M.P.No.1184/2025 dated 26.11.2025 and to direct the respondent police to produce the vehicle namely Yamaha Two Wheeler bearing Reg.No.TN-32-BF-1829 before the learned Judicial Magistrate, Vikravandi, and to hand over the vehicle to the Revision Petitioner for interim custody.

2. Brief facts leading to filing of present Criminal Revision Petition is as follows :

The Revision Petitioner is the owner of the vehicle and his vehicle namely Yamaha Two Wheeler bearing Reg.No.TN-32-BF-1829 was

seized by the respondent police for alleged illegal transportation of liquor in connection with the case in Crime No.342/2025, under Sections 4(1)(C), 4(1)(A) of the Tamil Nadu Prohibition (Amendment) Act, 2024 and Sections 4(1)(h), 14A of the Tamil Nadu Prohibition Act. The accused namely Suthesi, who is the rider of the said vehicle was released on bail. The petitioner already filed application under sections 497 and 503 of B.N.S.S. before the trial court for seeking interim custody of his vehicle and the same was dismissed by the trial court in CrI.M.P.No.1184/2025 dated 26.11.2025. The petitioner is the owner of the vehicle and he has not committed any offence. Aggrieved by the said Order, the Revision Petitioner has come forward with the present petition.

3. The Grounds of Revision petition reads as follows :-

The order passed by the Learned Judicial Magistrate, Vikravandi in CrI.M.P.No.1184/2025 dated 26.11.2025 is contrary to settled legal principles, perverse to the materials on record, and suffers from patent illegality warranting interference. The learned Judicial Magistrate passed a non-speaking order devoid of reasoning, analysis, or discussion of relevant provisions. The failure to assign cogent reasons renders the order unsustainable. The learned Judicial Magistrate failed to appreciate that the

petitioner is not an accused. The accused, known to the petitioner, sought the vehicle citing a medical emergency. The petitioner, acting bona fide, lent the vehicle without any knowledge of illegal use. There is no material establishing any nexus, complicity or mens rea attributable to the petitioner. The petitioner purchased the vehicle on 26.02.2024 for Rs.2,08,000/- financed through Cholamandalam Finance. A vehicle of such value and condition would not ordinarily be lent for trivial purposes, thereby negating the presumption of knowledge or consent. Under the Prohibition Act, knowledge, conscious possession and consent of the owner are essential ingredients for initiating confiscation proceedings. Further, the petitioner filed application under sections 497 and 503 of B.N.S.S. before the trial court on 14.11.2025, 1st hearing is on 17.11.2025, then 2nd hearing on 19.11.2025, thereafter on 20.11.2025, then on 25.11.2025 finally posted on 26.11.2025, despite five effective hearings, the respondent police neither filed objections nor submitted any material to substantiate their claim of confiscation. Their inaction amounts to willful disobedience, lack of bona fides and suppression of material particulars. The learned Magistrate failed to draw adverse inference against the respondent. It is a common and routine practice for police to incorporate a standard, formatted sentence in FIRs stating that the

seized vehicle is "handed over for confiscation". The learned Magistrate erred in treating such casual FIR narration as conclusive evidence, which is liable to be treated as perverse. The respondent police failed to produce any record showing that the petitioner had knowledge or intention regarding the alleged offence. Mere involvement of a vehicle cannot justify continued detention or denial of interim custody when ownership is undisputed. The learned Magistrate overlooked the binding precedent of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat*, which mandates timely release of seized vehicles to avoid decay and unnecessary litigation. No confiscation proceedings have been initiated even after lapse of considerable time. The continued detention is wholly illegal, arbitrary and without authority. Handing over the vehicle to the petitioner will not prejudice the prosecution in any manner. Conversely, non-release will cause grave hardship, financial loss, depreciation, mechanical deterioration and violation of property rights of the petitioner. Further, neither the petitioner nor the vehicle have any previous adverse antecedents. Therefore, it is prayed that this court may be pleased to set aside the order passed by the learned Judicial Magistrate, Vikravandi in CrI.M.P.No.1184/2025 dated 26.11.2025 and thereby direct the learned Judicial Magistrate, Vikravandi to

return the vehicle namely Yamaha Two Wheeler bearing Reg.No.TN-32-BF-1829 to the petitioner for interim custody.

4. Notice was given to the learned Public Prosecutor, and he has stated that the accused namely Suthesi, without having any licence or permission from the Government, was found to be in possession of Pondicherry liquors in the vehicle namely Yamaha Two Wheeler bearing Reg.No.TN-32-BF-1829, in order to sell the same to higher price, hence he was arrested and remanded to judicial custody and the bottles have been recovered and the vehicle has also been seized and case was registered against the accused in Crime No.342/2025, under Sections 4(1)(C), 4(1) (A) of the Tamil Nadu Prohibition (Amendment) Act, 2024 and Sections 4(1) (h), 14A of the Tamil Nadu Prohibition Act. The vehicle was sent to the Deputy Superintendent of Police for initiation of confiscation proceedings, and notice was issued to the petitioner on 20.11.2025 and further, a letter dated 27.11.2025 was also sent to the petitioner for calling explanation, but the petitioner/owner of the vehicle has not sent any reply with regard to the vehicle. The learned Public Prosecutor further stated that now confiscation proceeding is completed and it is ready to be auctioned. Hence, if the vehicle is handed over to the petitioner, he will again commit the same offence and therefore, the learned

Public Prosecutor opposed to return the vehicle to the petitioner.

5. The points for consideration are as follows :

- (i) Whether the petitioner is entitled for an order for interim custody of his vehicle ?
- (ii) Whether the petition is to be allowed ?

6. Answer to the Point Nos. (i) and (ii) :

The Revision Petitioner is the owner of the vehicle bearing Reg.No.TN-32-BF-1829, as per the copy of R.C.book produced by him. The petitioner is not an accused in this case, and the petitioner's vehicle was seized by the Respondent Police on 11.11.2025 for illegal transportation of liquor by the accused namely Suthesi and hence he was arrested, and case was registered against him in Crime No.342/2025 of Villupuram P.E.Wing Police Station, under Sections 4(1)(C), 4(1) (A) of the Tamil Nadu Prohibition (Amendment) Act, 2024 and Sections 4(1) (h), 14A of the Tamil Nadu Prohibition Act.

7. The learned Public Prosecutor would oppose this application by stating that notice was already issued to the petitioner regarding confiscation proceedings, and now confiscation proceedings is completed and it is ready to be auctioned. The learned Public Prosecutor has relied upon two decisions.

In the first decision reported in 2010(1) LW CrL.129, the Hon'ble High Court of Madras has held that the discretion has to be exercised u/s. 451 and 457 of Cr.P.C., only after affording sufficient opportunity to the prosecution to get instructions. The Hon'ble High Court of Madras has directed Subordinate Courts to insist the Assistant Public Prosecutor/Public Prosecutor to file written memo as to the steps taken under section 14(4) of TNP Act and proceed to exercise its power u/s. 451 or 457 of Cr.P.C. In the 2nd decision reported in 2022 0 Supreme Madras 1184 the Hon'ble High Court of Madras by following the 1st decision above, held that when already confiscation proceedings are started, allowing the revision petition would futile the entire process of confiscation.

8. In the reply submitted by the respondent, it has been stated that the petitioner's vehicle has been seized for confiscation on 11.11.2025 and notice was also sent to the petitioner on 20.11.2025 and now confiscation proceedings is completed and it is ready to be auctioned. But final order for confiscation has not been produced by the respondent along with the report. Hence, it has to be deemed that final order has not been passed in the confiscation proceedings.

9. The Hon'ble High Court of Madras has observed in the decision

in *Crl.R.C.No.664/2022 dated 14.06.2022* (R.Manikandan Vs. State through the Sub Inspector of Police, H3 Maraimalainagar Police Station, Chengalpattu) that whenever a vehicle is involved in a crime, the same cannot be returned to the owner when confiscation proceedings are pending before the authorities. In the said case, the Hon'ble High Court of Madras has relied upon the decision of the Supreme Court of India in its judgment in State of M.P. Vs. Uday Singh [(2020) 12 SCC 733] wherein the Hon'ble Supreme Court has held as follows :-

“29.4.....The jurisdiction under Section 451 Cr.P.C. was not available to the Magistrate, once the authorised officer initiated confiscation proceedings.”

10. Therefore, this court finds no merits in the contention put-forth by the learned counsel for the Revision Petitioner. This court comes to the conclusion that the petitioner cannot seek return of his vehicle for interim custody especially when the confiscation proceeding is completed and it is ready to be auctioned.

11. It is pertinent to mention that the date of occurrence is 11.11.2025, F.I.R. was registered on the same day and the vehicle was also seized on the same day. The Revision Petitioner filed the application under

Sections 497 and 503 of B.N.S.S. before the Judicial Magistrate, Vikravandi on 14.11.2025 and the said petition was dismissed on 26.11.2025 on the ground that vehicle has been handed over to the Deputy Superintendent of Police, P.E.W. Villupuram for confiscation proceedings. It is also seen from the copy of notice enclosed in the reply of the respondent that the notice was issued to the Revision Petitioner on 20.11.2025 about the confiscation proceeding. However, no further steps taken and no final order has been passed on the confiscation proceeding till date. In such a situation, the procedure to be adopted, has been explained in the decision of the Hon'ble High Court, Madras cited supra. In the decision produced by the learned Public Prosecutor, it has been held that the Subordinate Court could exercise its discretion u/s.451 or 457 of Cr.P.C. after affording sufficient opportunity to the prosecution and that in case, if the Court orders interim custody of the vehicle, it should obtain necessary undertaking from the owner of the vehicle to produce the vehicle as and when directed and send copy of undertaking to the District Collector/Prohibition Officer or other authorized Officer along with the copy of the order passed by the Court. Following the said decisions, this Court is inclined to dispose of the instant Criminal Revision Petition on the following terms.

RESULT :

(i) Since the confiscation proceeding is said to be completed and it is ready to be auctioned, the petitioner is not entitled for return of the vehicle ;

(ii) The respondent is directed to complete the process of confiscation within six weeks from the date of receipt of copy of the order ;

(iii) If the confiscation process is not completed within the date stipulated above, then the petitioner will be entitled for return of the custody of the vehicle on the following conditions:-

(a) The order of the learned Judicial Magistrate, Vikravandi in Crl.M.P.No.1184/2025 dated 26.11.2025, is set aside.

(b) The petitioner will be entitled for return of the Yamaha Two Wheeler bearing Reg.No.TN-32-BF-1829.

(c) The Petitioner shall produce the original R.C book and other relevant records to prove his ownership and the Original R.C book should be in safe custody in the Judicial Magistrate, Vikravandi till end of trial.

(d) The petitioner shall not alter the character and nature of the vehicle except for carrying out necessary repair to make the vehicle road worthy or to sell the same to any third party in any manner till adjudication is over.

(e) The petitioner shall execute a bond for a sum of **Rs.80,000/- (Rupees Eighty Thousand only)** along with two sureties each for the like

sum to the satisfaction of Judicial Magistrate, Vikravandi.

(f) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle before the Judicial Magistrate, Vikravandi at 10.00 A.M on 1st working day of every English Calendar month, until further orders.

(g) The petitioner shall also give an undertaking that he will cooperate for the confiscation proceedings and will produce the vehicle before the Confiscation Authority as and when required by the Authority.

(h) The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the present vehicle (Yamaha Two Wheeler bearing Reg.No.TN-32-BF-1829), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

(i) The petitioner shall take photograph of the vehicle and submit the same along with "Compact Disc" to the concerned Judicial Magistrate and detailed **Panchanama** should be prepared.

(j) After surrendering the R.C. Book, if the petitioner prefers any petition for return of R.C Book for any purpose in the future, the same may be filed before the Judicial Magistrate, Vikravandi who will consider the same on merits.

(k) The Respondent is directed to produce the vehicle before

the Judicial Magistrate, Vikravandi within a period of 2 weeks from the date of allowing this petition.

(1) On such production of the vehicle, the learned Judicial Magistrate, Vikravandi is directed to hand over the aforesaid vehicle to the petitioner for interim custody, **after assigning case property number**, and return the vehicle on fulfillment of the above said conditions.

Dictated to the steno-typist and typed by her directly in computer, corrected and pronounced by me, in open court, on this the 17th day of March 2026.

Principal Sessions Judge,
Villupuram.

Draft/Fair/Copy Order
Crl.R.P.No.44/2025
Dated : 17.03.2026