

ITEM NO.9

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 9064/2025

[Arising out of impugned final judgment and order dated 16-08-2024 in CRLRC(MD) No. 444/2024 passed by the High Court of Judicature at Madras at Madurai]

SEENI HAJA MOHAMMED

Petitioner(s)

VERSUS

STATE REPRESENTED THROUGH
THE INSPECTOR OF POLICE & ANR.

Respondent(s)

IA No. 48267/2025 - CONDONATION OF DELAY IN FILING

IA No. 48268/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 48269/2025 - EXEMPTION FROM FILING O.T.

Date : 10-02-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ALOK ARADHE

For Petitioner(s) :Mr. A Velan, AOR
Ms. Navpreet Kaur, Adv.
Mr. Mritunjay Pathak, Adv.
Mr. Prince Singh, Adv.
Mr. Nilay Rai, Adv.
Ms. Kanika Sharma, Adv.
Mr. M. Rashik Hameed Mukilan, Adv.

For Respondent(s) :Mr. N.R.Elango, Sr. Adv.
Mr. Sabarish Subramanian, AOR
Ms. Arpitha Anna Mathew, Adv.
Mr. Agilesh Kumar, Adv.
Mr. G R Deepak, Adv.
Mr. Vishnu Unnikrishnan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Delay condoned.
2. Heard Mr. A. Velan, learned counsel for the petitioner and Mr. N.R. Elango, learned senior advocate for the respondent. We are informed that vehicle seized has already been released pursuant to

the order passed by this Court on 18.12.2025. In this view or the mater nothing remains for our consideration.

3. Mr. Velan, Ld. Counsel for the petitioner expressed certain concerns about the legality and propriety of the State Government exercising powers under Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022. We were inclined to consider the questions of law raised by Mr. Velan. However, in a recent decision of this Court in *Denash vs. The State of Tamil Nadu*; reported in 2025 INSC 1258, the concerns of the Ld. Counsel were considered and answered in detail. The relevant portion of the judgment is as under:

27. On the contrary, the Rules of 2022 restrict the mode of disposal of a seized conveyance to "tender or auction", as may be determined by the Drug Disposal Committee. However, this restrictive procedural framework must necessarily be read in harmony with the parent statute. The Rules, being subordinate legislation, cannot override or curtail the substantive rights and procedural safeguards envisaged under the parent legislation that is the NDPS Act. In Bishwajit Dey (supra), this Court observed that the provisions of the NDPS Act do not bar the concerned Court from exercising its discretion, to release the vehicle in interim custody. While the Act provides for confiscation in appropriate cases, it does not preclude the Court from granting interim release of the vehicle where the circumstances so warrant. The exercise of such judicial discretion is to be guided by the facts and circumstances of each case and should be undertaken in a manner that safeguards the rights of a bona fide owner at the same time balancing the need for detention of the vehicle/conveyance in appropriate cases.

...

29. Accordingly, we have no hesitation in holding that the Rules of 2022 cannot be interpreted as divesting the Special Courts of their jurisdiction to entertain an application for interim custody or release of a seized conveyance under Sections 451 and 457 of CrPC

[Sections 497 and 503 of BNSS]. The authority of the Special Court to pass appropriate orders for interim custody during the pendency of the trial, as well as to make final determination upon its conclusion, continues to operate independently of the disposal mechanism envisaged under the said Rules. Any interpretation to the contrary would lead to anomalous and unjust consequences by depriving a bona fide owner of his property without judicial scrutiny or an opportunity of hearing, an outcome wholly inconsistent with the statutory scheme of the NDPS Act and contrary to the fundamental principles of natural justice.

30. Hence, we are of the considered view that the interpretation given by the High Court, holding that pursuant to the promulgation of the Rules of 2022, all other forums, including the Special Court, are divested of the jurisdiction to decide the fate of a seized conveyance under the NDPS Act and that the aggrieved person must necessarily approach the Drug Disposal Committee, is unsustainable in the eyes of law.

(emphasis supplied)

4. We are of the opinion that this Court has in clear terms held that the powers of the Court under Section 451 and 457 of CrPC [Section 497 and 503 of BNSS] continue to subsist. There is no doubt about the fact that the Special Court would exercise the power when its jurisdiction is invoked by an application for interim custody or release of a seized conveyance under Sections 451 and 457 of CrPC [Sections 497 and 503 of BNSS]. Mr Velan would also submit that Rules are ultra vires and should therefore be set aside. As such a challenge is not laid before the High Court, the question has not arisen in present proceedings, we are not inclined to accept the said contention.

5. With this clarification, the Special Leave Petition stands disposed of.

6. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
ASSISTANT REGISTRAR