



Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No. _____ of 2026
[@ Special Leave Petition (Crl.) No.18633 of 2025]**

R Manimaran

... Appellant (s)

Versus

State of Tamil Nadu

... Respondent (s)

ORDER

Leave granted.

2. By the judgment impugned in this appeal, the High Court confirmed the order of the Additional District & Sessions Court for EC and NDPS Act cases, Pudukottai, rejecting the prayer for release of the vehicle involved in the NDPS case.

3. The vehicle was intercepted and on alleged recovery of contraband; 66 kg of ganja, three persons travelling in the lorry were booked, charging them under the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'). The vehicle, a lorry

manufactured by Ashok Leyland was also seized. The persons detained on recovery of contraband was arrayed as A1 to A3, while one another who fled, was arrested and arrayed as A4.

4. The trial saw PW1 to PW8 being examined, marking Ex.P1 to P13 and producing MO1 to MO8 on the side of the prosecution. The accused marked three documents as Exs.D1 to D3. The trial concluded with a judgment acquitting the accused on four grounds; (i) the arrest memo at 8 PM on 04.05.2021 showed the crime number, which was generated on the registration of the FIR on 05.05.2021; (ii) there was no register maintained in the Police Station recording the date and time of keeping the contraband in safe custody; (iii) that the official witnesses were unable to explain as to how the lorry was allowed to ply especially when transport was restricted due to the pandemic and (iv) the delay in sending the samples to the Court and from there to the Laboratory. The Court found that the prosecution failed to prove the complicity of the accused beyond reasonable doubt. The Additional District and Sessions Judge also directed the

release of the lorry to its owner after the appeal period is over.

5. It was long after the period of appeal was over, the appellant herein moved the Trial Court for release of his vehicle, which was rejected by the Trial Court. The High Court affirmed the order of the Trial Court, finding that the release of a vehicle detained in a NDPS case has to be through a process involving Drug Disposal Committee (DDC) under Section 52A of the NDPS Act, Standing Orders and the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022. The Investigating Officer (IO) had moved the Trial Court to refer the matter to the DDC and hence the owner will have to approach the DDC was the finding.

6. The High Court noticed the decision of that High Court itself in ***Nahoorkani v. State***¹, which held that the provisions under Section 63 of the NDPS Act has to be proceeded with during the trial and not after it and the right of the State to confiscate, the conveyance and articles or things seized under the NDPS Act, is irrespective of the result of the trial.

¹ CrI.RC(MD) No.41 of 2017, dated 16.06.2023

Section 63 of the NDPS Act modifies Sections 451 and 452 of the Code of Criminal Procedure, 1973² and any claimant to the property involved in an NDPS case would be obliged to satisfy the Court in terms of the exceptions carved out in Sections 60, 61 and 62 of the NDPS Act. The Court thus does not have jurisdiction to deal with the conveyance seized under the NDPS Act was the finding.

7. There can be no dispute that in the present case no such confiscation proceedings were initiated in the course of the trial or immediately after the judgment was delivered on 20.01.2023. An application is said to have been moved by the I.O before the Trial Court on 18.10.2023 seeking permission to refer the vehicle to DDC.

8. The view taken by the High Court of Madras in ***Nahoorkani***¹ runs counter to the view of this Court in ***Biswajit Dey v. State of Assam***³. On reading the NDPS Act, this Court was of the view that the vehicle in which the contraband is alleged to have been found carried, can be confiscated by

² In short 'CrPC'

³ (2025) 3 SCC 241

the Trial Court only on conclusion of the trial, when the accused is convicted or acquitted or discharged. It was also held that, if the view is, of confiscation, then an opportunity of hearing has to be granted before such order is passed. There can be no confiscation, if the owner is able to prove that the vehicle was used without the owner's knowledge or connivance and that he had taken all reasonable precautions against such use of the vehicle by the accused persons.

9. Therein the learned judges also contemplated four scenarios in which contraband is seized from a vehicle. The first of which was the owner itself being in possession of the vehicle and the drugs; then, the owner's driver or cleaner, thus his agents being in possession; third, if the vehicle had been stolen and; last, when a third party in the vehicle is found in possession. It was held that in the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused and in the third and fourth scenario, the owner of the vehicle and his agent would not be arrayed as an accused. It was also held that, in the first two scenarios, it may not be proper for the Court to release the vehicle on

interim custody, while in the last two scenarios, it could be done. We have to immediately notice that the said declaration applied only to interim custody and not to the final release of the vehicle.

10. Admittedly, the confiscation proceedings under the NDPS Act and the criminal proceedings initiated are distinct proceedings. The result in one, not regulating the other. An order of acquittal does not necessarily mean that the vehicle too has to be released, since the standard of proof in the two proceedings are quite distinct and different; in confiscation, preponderance of probabilities and in the criminal proceedings, proof beyond reasonable doubt.

11. We are in full agreement with the view taken in ***Biswajit Dey***² since sub-section (1) of Section 63 provides that whether the accused is convicted or acquitted or discharged, the Court shall decide whether any article or thing seized under this Act is liable to confiscation under Section 60 or Section 61 or Section 62 and that if it decides that the article is so liable, order of confiscation may be passed. Section 60 makes liable, *inter alia* the conveyance; in

which the offensive substance is carried, to confiscation. Sub-section (3) provides an exception insofar as the owner proving the use; without his knowledge and connivance and he having made reasonable precautions against such use. In fact, the statute by Section 63(1), specifically provides for confiscation by the Magistrate and not by the DDC. We have also looked at the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, which prescribes the manner in which the seized contraband is to be classified, weighed and stored. It also prescribes the manner in which sampling has to be done in the presence of a Magistrate and speaks of disposal too. Rule 16 specifically reads so:

*“16. **Items that can be disposed of.** - Having regard to the hazardous nature, vulnerability to theft, substitution and constraints of proper storage space, all narcotic drugs, psychotropic substances, controlled substances and conveyances, as soon as may be after their seizure, shall be disposed of in the manner determined under Section 52A of the Act.”*

12. We observe that a conveyance also can be disposed of under the Rules of 2022, but the power to confiscate being with the Court, it would not be proper for the DDC to

independently proceed against the vehicle and dispose of that by sale or otherwise in auction, pending the criminal proceedings, without proper orders from the Court. As has been held in **Biswajit Dey²**, there is no specific bar under the NDPS Act that the Court cannot invoke the general power under Sections 451 and 457 of the CrPC for return of the seized vehicle pending final decision of the criminal case. Hence to preserve the statutory power, as conferred by Section 63(1) on the Court, trying the offence under the NDPS Act and to harmonize the Rules with the statute, it has to be held that the rules can be made applicable only with the permission of the Court.

13. It cannot be forgotten that the vehicle kept in the custody of the Police or the Court, during the pendency of the trial, may deteriorate and become unusable in the long run. It is hence the finding of this Court in **Biswajit Dey²** that the provisions of Sections 451 and 457 of the CrPC (or the analogous provisions of the BNSS) can be invoked even in NDPS cases.

14. However, if none appears to seek custody of the vehicle, then to avoid wastage of a valuable asset, the I.O may move the Court, if the owner does not approach the Court for interim custody, to refer it for disposal before the DDC. In that circumstance necessarily the Court has to issue notice to the owner of the vehicle and afford an opportunity of hearing before such reference is made. Even if the reference is made after giving an opportunity for hearing, the DDC also has to hear the owner before the asset, in the form of a vehicle, is sold in public auction. On such sale being carried out, the amount received shall be deposited before the Jurisdictional Court, since the procedure delineated for disposal does not include confiscation. Statutorily the power of confiscation is on the Court, trying the offence.

15. In the present case we should observe that the Trial Judge directed the release of the vehicle, which cannot be termed to be an error in law or on facts. There are certain compelling circumstances in the present case, which persuade us to concur with the Trial Court. As we noticed, there were four grounds on which the acquittal was entered,

which are quite serious and puts the prosecution in peril. Moreover, there are other inconsistencies, which the learned Trial Judge found to be not serious enough to disbelieve the testimonies and vitiate the prosecution on the ground of a faulty investigation. The said contentions were of the seizure *mahazar* not indicating the name of the road on which the interception was made, the weighment said to have been carried out in a nearby Super Market not having been proved by cogent evidence, the information received which led to the interception of the vehicle not being recorded in the General Diary, the Consent Letter for search not referring to the vehicle, the non-mentioning of the exact spot from which the recovery of the contraband was effected, sampling not having been done in the presence of the Magistrate and so on and so forth.

16. The above grounds juxtaposed with the grounds relied on by the Trial Court to acquit the accused, according to us, makes the very interception suspect. Considering the fact that the accused have been acquitted, finding the prosecution case to be not established and the suspicious

circumstances regarding the booking of the case itself, we are persuaded to release the vehicle to the appellant herein. The Trial Court exercising the power conferred under Section 63(1) has ordered release of the vehicle to its owner; according to us, perfectly justified in the facts of the case. In the application filed by the owner, after the judgment in the criminal case, the Court in this case could have just verified the credentials of the owner and not deny release; which is already ordered. The order of the Trial Court rejecting release of the vehicle to the owner is set aside and so is the impugned judgment of the High Court.

17. The vehicle bearing registration number TN-57-AQ-2165 involved in CC No.75 of 2021, which ended in an acquittal of all the accused, by the learned II Additional District Court for EC and NDPS Act Cases, Pudukottai shall be released to the appellant herein. If at all the Additional District and Sessions Court has transmitted the vehicle to the DDC, the vehicle shall be released forthwith by the DDC to the appellant herein.

18. The Criminal Appeal stands allowed.

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

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
AUGUST 24, 2026.**