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DELHI POLICE ACADEMY

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Date of Judgement: 27/10/2025

30th Edition
November 2025



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–THE SUPREME COURT

DENASH .....APPELLANT
VERSUS
STATE OF TAMIL NADU .....RESPONDENT

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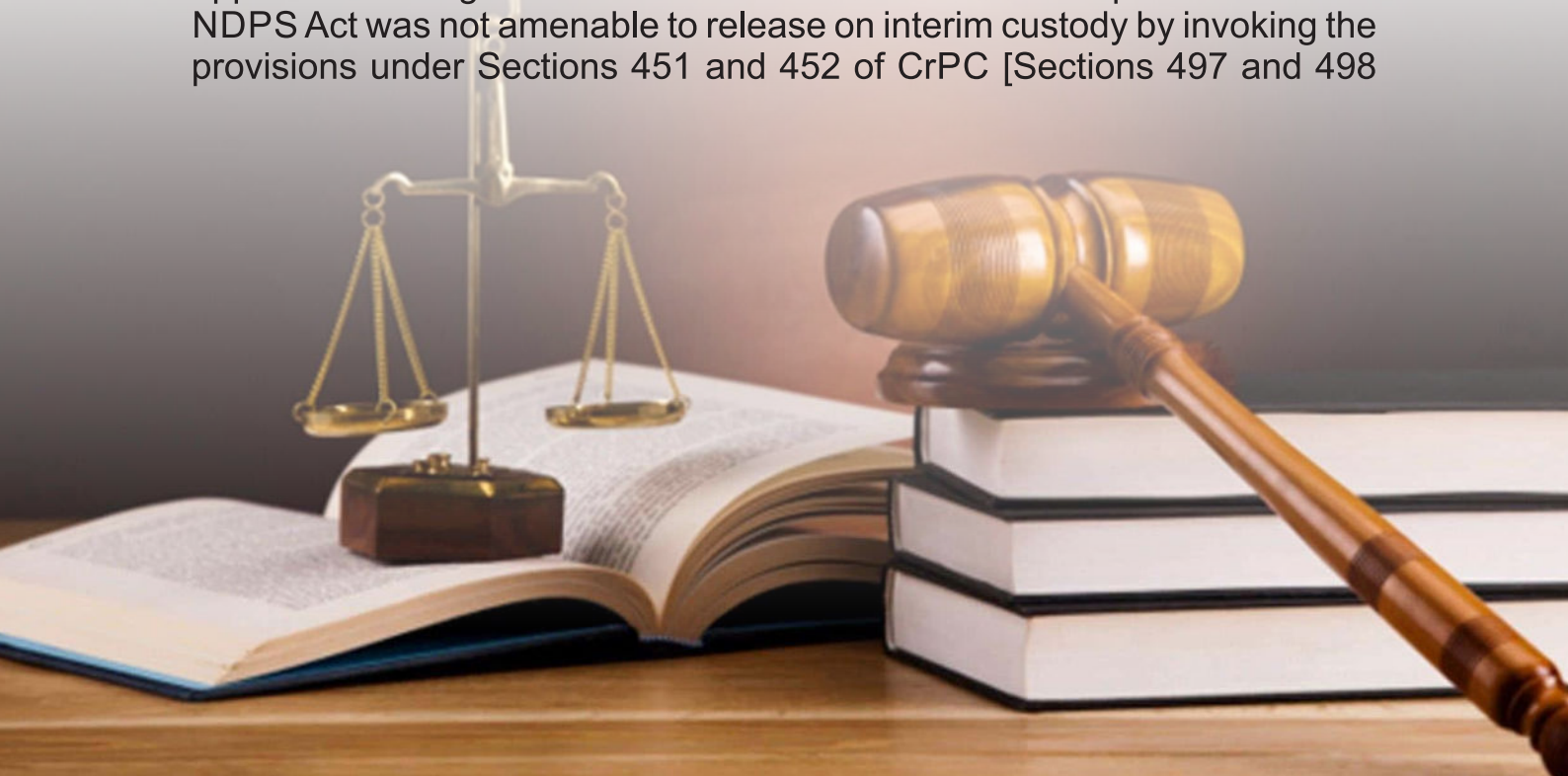
CRIMINAL APPEAL Arising out SLP (Crl.) No. 8698 of 2025

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Facts of the Case:

The case reveals that the appellant is the owner of the vehicle in question, which was lawfully hired for transporting 29,400 MT of iron sheets from M/s S.S. Steel and Power, Chhattisgarh to Ashok Steels, Ranipet, Tamil Nadu. For this purpose, the vehicle had been assigned to driver Kannan @ Venkatesan (accused No. 1), Deva (accused No. 2), Senthamalivalavan (accused No. 3), and Tamil Selvan (accused No. 4). During the course of transit, on 14th July, 2024, the officers of Police Station Neyveli Township, intercepted and searched the vehicle, whereupon 1.5 kilograms of Ganja was found concealed beneath the driver Kannan's (accused No. 1) seat, and an additional 1.5 kilograms each was recovered from the personal possession of the other three accused, thereby bringing the total quantity of seized Ganja to 6 kilograms. All four accused persons present in the vehicle were arrested. Pursuant to the seizure, First Information Report No. 220 of 2024 was registered at P.S. Neyveli Township, District Cuddalore, for offences punishable under Sections 8(c), 20(b)(ii)(B), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substance Act, 19853. Upon conclusion of the investigation, chargesheet was filed against the aforesaid four accused for the said offences. It is important to note that the appellant was not arraigned as an accused in the report filed under Section 173(2) of the Code of Criminal Procedure [Section 193(3) of BNSS]. Being aggrieved by the continued seizure of his valuable transport vehicle, the appellant moved an application under Section 497 BNSS [Section 451 CrPC], being Criminal Miscellaneous Application No. 5495 of 2024, before Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, seeking interim release of the seized vehicle on supurdagi pending conclusion of trial. The Special Court, vide order dated 9th September, 2024 dismissed the aforesaid application filed by the appellant on the ground that the vehicle seized under the provisions of the NDPS Act was not amenable to release on interim custody by invoking the provisions under Sections 451 and 452 of CrPC [Sections 497 and 498



BNSS], as the same was liable to confiscation under Section 63 of the NDPS Act. Being aggrieved, the appellant approached the High Court for assailing the order of the Special Court by filing Criminal Revision Case (MD) No. 1021 of 2024 which came to be rejected by the impugned judgment. The High Court held that pursuant to introduction of the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, the Drug Disposal Committee alone had the authority and jurisdiction to adjudicate upon the disposal of the property which included seized drugs as well as the conveyances. The High Court further held that since the Rules of 2022 vested exclusive jurisdiction with the Drug Disposal Committee, it could be presumed that the Committee was empowered to consider requests for interim release of a seized conveyance as well. Accordingly, the revision preferred by the appellant was dismissed upon which, the appellant is before us by way of the instant appeal with special leave.

ISSUES ADVANCED:

1. **Jurisdiction for Interim Release:** The central legal question was whether the introduction of the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022, divested the Special Courts of their inherent power to grant interim custody of a vehicle seized under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, and vested that power exclusively in an administrative **Drug Disposal Committee (DDC).**
2. **Interpretation of NDPS Act and 2022 Rules:** The case required the interpretation and reconciliation of various statutory provisions, including Section 60(3) (liability of conveyances to confiscation), Section 63 (procedure for confiscation) of the NDPS Act, and the 2022 Rules.
3. **Owner's Culpability:** Whether the owner of a seized vehicle, who was not an accused in the case and allegedly had no knowledge or connivance in the offense (transporting 6 kg of Ganja), was entitled to the release of the vehicle on supurdagi (interim custody) pending the conclusion of the trial.
4. **Application of Precedent:** Whether the High Court was correct in distinguishing the present case from a prior Supreme Court decision in ***Bishwajit Dey v. State of Assam*** and whether the 2022 Rules rendered the ratio of the earlier judgment per incuriam (decided without considering a relevant statute).

JUDGEMENT:

The Hon'ble Supreme Court held that the judgment of High Court was erroneous on several grounds. The Court observed that:

Findings and Conclusion: -

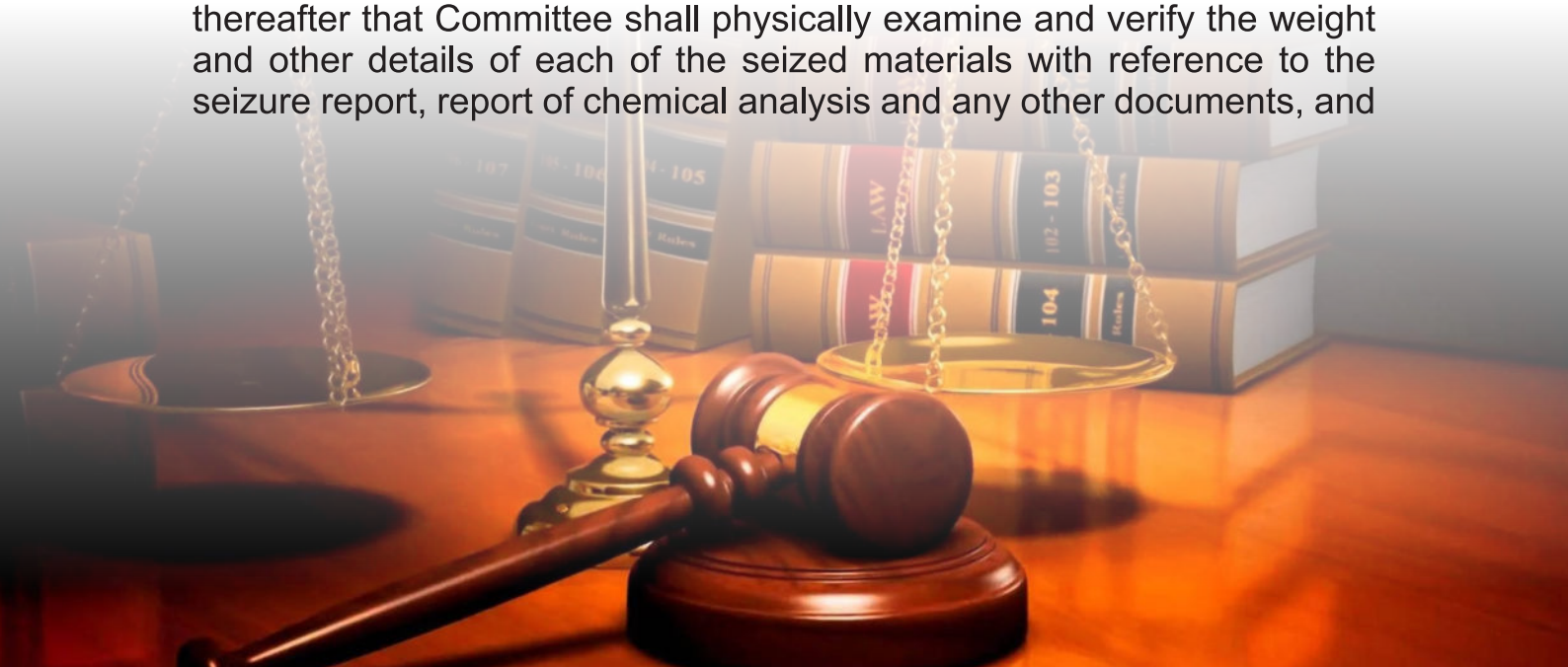
PARA 11. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the impugned judgment and the material placed on record. We have also carefully perused the Rules of 2022.

PARA 12. Relevant provisions of the Rules of 2022 are quoted herein below: -

"17. Officers who shall initiate action for disposal. - Any officer in-charge of a police station or any officer empowered under section 53 of the Act shall initiate action for disposal of narcotic drugs, psychotropic substances, controlled substances or conveyances under section 52A of the Act after the receipt of chemical analysis report.

20. Functions of the Drug Disposal Committee. - The functions of the Drug Disposal Committee shall be to, - (a) meet as frequently as possible and necessary; (b) conduct a detailed review of seized items pending disposal; (c) order disposal of seized items, and (d) advise the respective investigation officers or supervisory officers on the steps to be initiated for expeditious disposal.

21. Procedure to be followed by the Drug Disposal Committee with regard to disposal of seized materials. – (1) The officer-in-charge of the godown shall prepare a list of all the seized materials that have been certified under section 52A of the Act and submit it to the Chairman of the concerned Drug Disposal Committee. (2) After examining the list referred to in sub-rule (1) and satisfying that the requirements of section 52A of the Act have been fully complied with, the Members of the concerned Drug Disposal Committee shall endorse necessary certificates to this effect and thereafter that Committee shall physically examine and verify the weight and other details of each of the seized materials with reference to the seizure report, report of chemical analysis and any other documents, and



record its findings in each case. (3) In case of conveyance, the committee shall verify the engine number, chassis number and other details mentioned in panchnama and certify the inventory thereof.

22. Power of Drug Disposal Committee for disposal of seized material. - The Drug Disposal Committee can order disposal of seized materials up to the quantity or value indicated in the following Table, namely: -

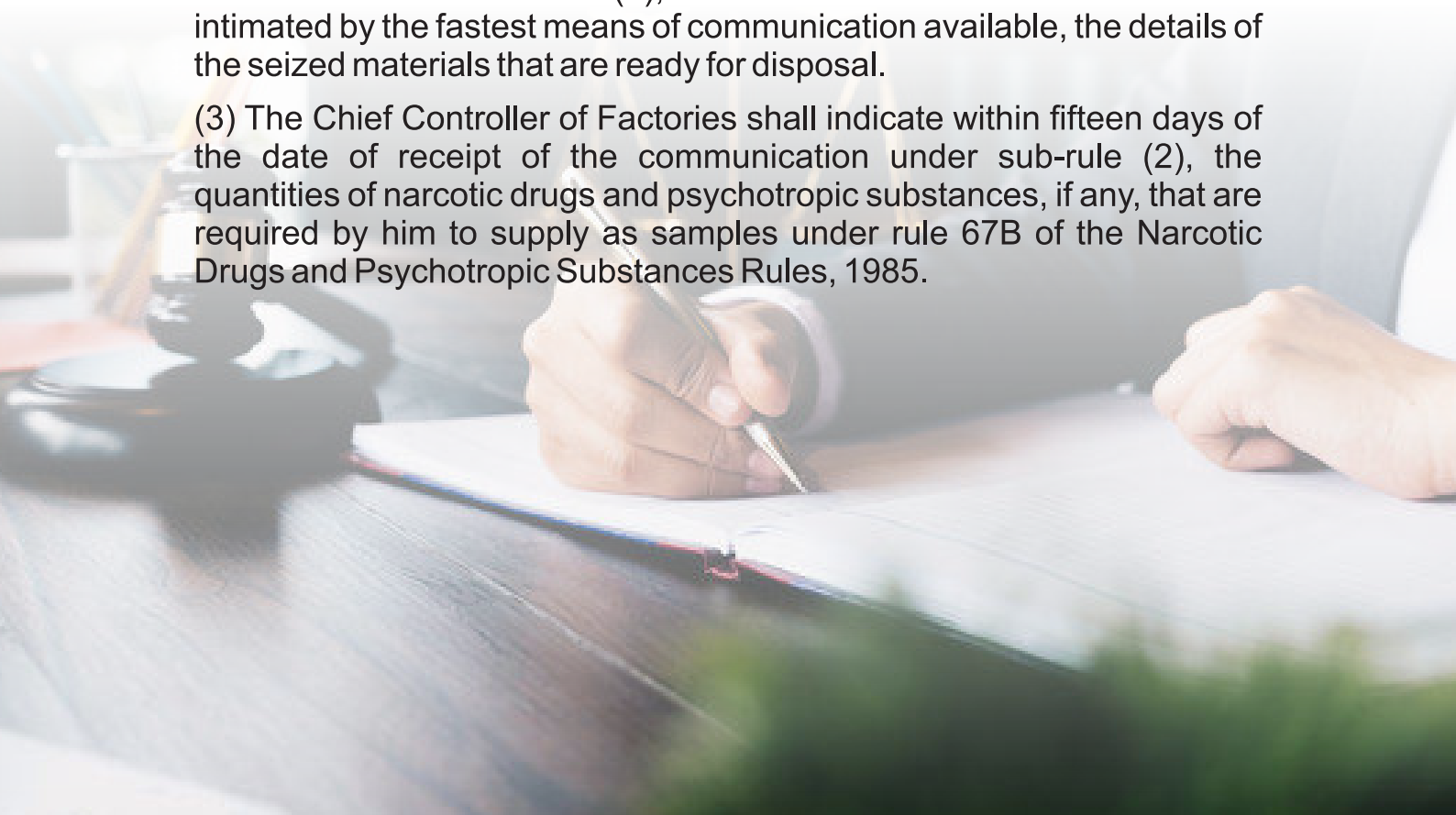
S. No.	Name of Item	Quantity per consignment
1.	Heroin	5 Kilogram
2.	Hashish (Charas)	100 Kilogram
3.	Hashish Oil	20 Kilogram
4.	Ganja	1000 Kilogram
5.	Cocaine	2 Kilograms
6.	Mandrax	3000 Kilogram
7.	Poppy Straw	Up to 10 Metric Tonne
8.	Other narcotic drugs, psychotropic substances, or controlled substances	Up to a quantity of 500 Kilogram or 500 Litre
9.	Conveyances	Up to a value of Rs. 50 Lakhs

23. Mode of disposal. –

(1) Opium, morphine, codeine and thebaine shall be disposed of by transferring to the Government Opium and Alkaloid Works under the Chief Controller of Factories.

(2) In case of narcotic drugs and psychotropic substances, other than those mentioned in sub-rule (1), the Chief Controller of Factories shall be intimated by the fastest means of communication available, the details of the seized materials that are ready for disposal.

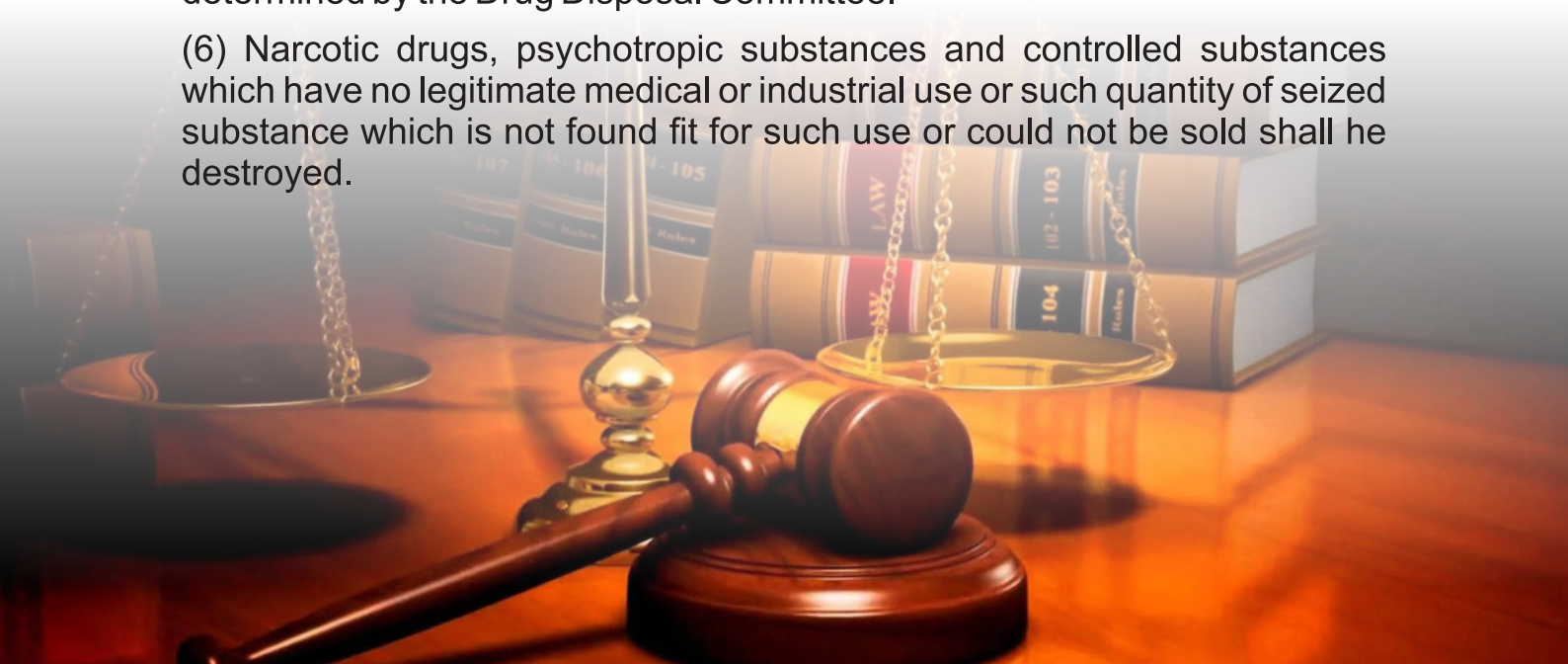
(3) The Chief Controller of Factories shall indicate within fifteen days of the date of receipt of the communication under sub-rule (2), the quantities of narcotic drugs and psychotropic substances, if any, that are required by him to supply as samples under rule 67B of the Narcotic Drugs and Psychotropic Substances Rules, 1985.



(4) The quantities of narcotic drugs and psychotropic substances, if any, as required by the Chief Controller of Factories under sub rule (3) shall be transferred to him and the remaining quantities of narcotic drugs and psychotropic substances shall be disposed of in accordance with the provisions of sub-rules (5), (6) and (7).

(5) Narcotic drugs, psychotropic substances and controlled substances having legitimate medical or industrial use, and conveyances shall be disposed of in the following manner; (a) narcotic drugs, psychotropic substances and controlled substances which are in the form of formulations and labelled in accordance with the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) and rules made thereunder may be sold, by way of tender or auction or in such other manner as may be determined by the Drug Disposal Committee, after confirming the composition and formulation from the licensed manufacturer mentioned in the label, to a person fulfilling the requirements of the said Act and the rules and orders made thereunder: Provided that a minimum of 60% of the shelf life of the seized formulation remains at the time of such sale; (b) narcotic drugs, psychotropic substance and controlled substances seized in the form of formulations and without proper labelling shall be destroyed; (c) narcotic drugs, psychotropic substances and controlled substances seized in bulk form may be sold by way of tender or auction or in such other manner as may be determined by the Drug Disposal Committee, to a person fulfilling the requirements of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Act, and the rules and orders made thereunder, after confirming the standards and fitness of the seized substances for medical purposes from the appropriate authority under the said Drugs and Cosmetics Act, 1940 and the rules made thereunder; (d) controlled substances having legitimate industrial use may be sold, by way of tender or auction or in such other manner as may he determined by the Drug Disposal Committee, to a person fulfilling the requirements of the Act and the rules and orders made thereunder; (e) seized conveyances shall be sold by way of tender or auction as may be determined by the Drug Disposal Committee.

(6) Narcotic drugs, psychotropic substances and controlled substances which have no legitimate medical or industrial use or such quantity of seized substance which is not found fit for such use or could not be sold shall he destroyed.



(7) The destruction referred to in clause (b) of sub-rule (5) and sub-rule (6) shall be by incineration in incinerators fitted with appropriate air pollution control devices, which comply with emission standards and such incineration may only be done in places approved by the State Pollution Control Board or where adequate facilities and security arrangements exist and in the latter case, in order to ensure that such incineration may not be a health hazard or polluting, the consent of the State Pollution Control Board or Pollution Control Committee, as the case may be, shall be obtained, and the destruction shall be carried out in the presence of the Members of the Drug Disposal Committee."

PARA 13. A bare perusal of the rules, particularly the provisions pertaining to disposal of conveyances would make it clear that they are only supplemental to the scheme of disposal contemplated under the NDPS Act. The Rules being subordinate legislation, cannot supersede the provisions of the parent legislation, i.e., the NDPS Act.[9] It is well settled that the Rules framed under a statute are intended to carry out the purposes of the Act and cannot travel beyond or be inconsistent with the parent legislation.

PARA 14. As per Rule 17, initiation of process for disposal lies exclusively in the domain of the officer in-charge of the police station or any other officer empowered under Section 53 of the NDPS Act, and such initiation has to be preceded by the receipt of the chemical analysis report.

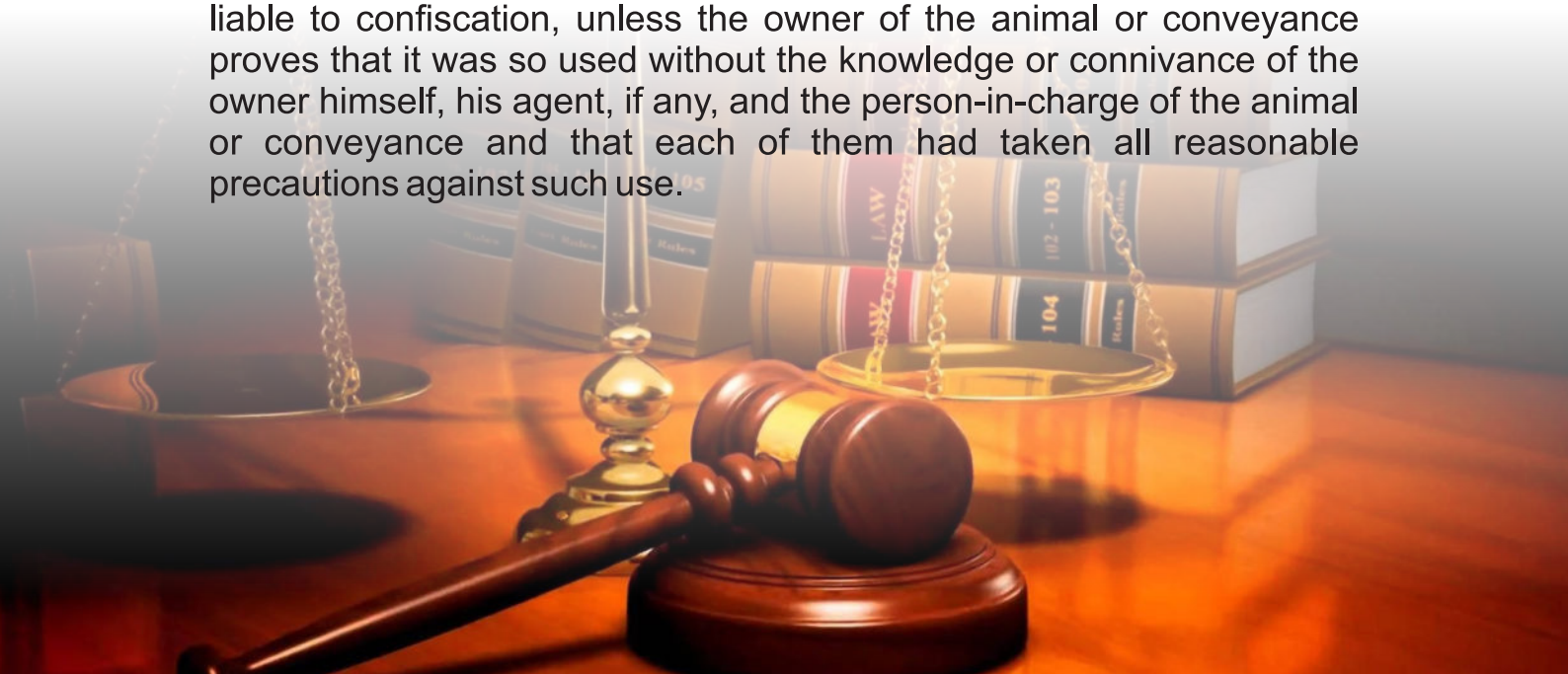
PARA 15. In other words, the Rules do not contemplate that any person other than the officer in-charge of the police station or any other officer empowered under Section 53 of the NDPS Act, can move an application for disposal. Furthermore, no such application can be entertained before the receipt of the chemical analysis report. The clear intention of the Rule appears to be that disposal proceedings should not commence until the seized narcotic drug has been duly verified through chemical examination, as such verification forms the very basis of further proceedings under the Act.

PARA 16. Furthermore, Rule 22 provides that the Drug Disposal Committee "can" direct disposal of the seized materials including conveyances valued less than Rupees 50 lakhs. Clearly thus, the provision under the said Rule is not mandatory, rather directory and supplemental to the provisions of disposal under the Act.

PARA 17. While the Rules of 2022 lay down the procedure for initiation and disposal of seized articles, they are notably silent on the rights of persons whose property is affected by such disposal. This omission assumes particular importance in cases where the seized property is not a contraband per se but a conveyance or container belonging to a third party who may have no connection with the seized contraband. In this context, it is essential to refer to the substantive and procedural provisions contained in Sections 60 and 63 of the NDPS Act, which form the statutory framework governing confiscation and the rights of claimants.

PARA 18. Section 60 and Section 63 are reproduced herein-below for ready reference: -

60. Liability of illicit drugs, substances, plants, articles and conveyances to confiscation.— (1) Whenever any offence punishable under this Act has been committed, the narcotic drug, psychotropic substance, controlled substance, opium poppy, coca plant, cannabis plant, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation. (2) Any narcotic drug or psychotropic substance [or controlled substances] lawfully produced, imported inter-State, exported inter-State, imported into India, transported, manufactured, possessed, used, purchased or sold along with, or in addition to, any narcotic drug or psychotropic substance [or controlled substances] which is liable to confiscation under sub-section (1) and the receptacles, packages and coverings in which any narcotic drug or psychotropic substance [or controlled substances], materials, apparatus or utensils liable to confiscation under sub-section (1) is found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation. (3) Any animal or conveyance used in carrying any narcotic drug or psychotropic substance [or controlled substances], or any article liable to confiscation under sub-section (1) or sub-section (2) shall be liable to confiscation, unless the owner of the animal or conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person-in-charge of the animal or conveyance and that each of them had taken all reasonable precautions against such use.



63. Procedure in making confiscations. (1) In the trial of offences under this Act, 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, if it decides that the article is so liable, it may order confiscation accordingly. (2) Where any article or thing seized under this Act appears to be liable to confiscation under section 60 or section 61 or section 62, but the person who committed the offence in connection therewith is not known or cannot be found, the court may inquire into and decide such liability, and may order confiscation accordingly: Provided that no order of confiscation of an article or thing shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim: Provided further that if any such article or thing, other than a narcotic drug, psychotropic substance [controlled substance], the opium poppy, coca plant or cannabis plant is liable to speedy and natural decay, or if the court is of opinion that its sale would be for the benefit of its owner, it may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale." (Emphasis Supplied)

PARA 19. Section 60 deals with the liability of illicit drugs, substances, articles, and conveyances to confiscation. Sub-section (3) specifically provides that any animal or conveyance used in carrying a narcotic drug or psychotropic substance shall be liable to confiscation unless the owner proves that such use occurred without his knowledge or connivance, and that he, his agent (if any), and the person-in-charge had taken all reasonable precautions against such use. In other words, where the owner is able to demonstrate that the conveyance was used in violation of the NDPS Act without his knowledge or connivance and that due diligence was exercised, the vehicle cannot be confiscated merely because it was used in the commission of an offence under the said Act. However, the Rules of 2022 (supra) do not provide any such liberty to the owner nor do they empower the Committee to release a vehicle/conveyance seized under the Act.



PARA 20. Section 63 sets out the procedural mechanism to be followed by the Special Court before passing any order relating to seized property. It mandates that no final order of confiscation of the conveyance can be passed without affording an opportunity of hearing to the person claiming ownership and without considering the evidence adduced in support of such claim. Importantly, the statute expressly vests this adjudicatory power in the Special Court, thereby excluding any administrative or executive authority, such as the Drug Disposal Committee from unilaterally determining the fate of a seized vehicle where ownership is claimed and fortified by a lawful defence in terms of Section 60(3) of the NDPS Act.

PARA 22. The legislative scheme thus contemplates that confiscation, being a measure resulting in deprivation of property, must conform to the basic tenets of natural justice and must be preceded with a prior hearing which would ensure that an innocent owner or a bona fide claimant, whose vehicle or container might have been misused without his knowledge or connivance, is not subjected to undue hardship and unjust deprivation of his property.

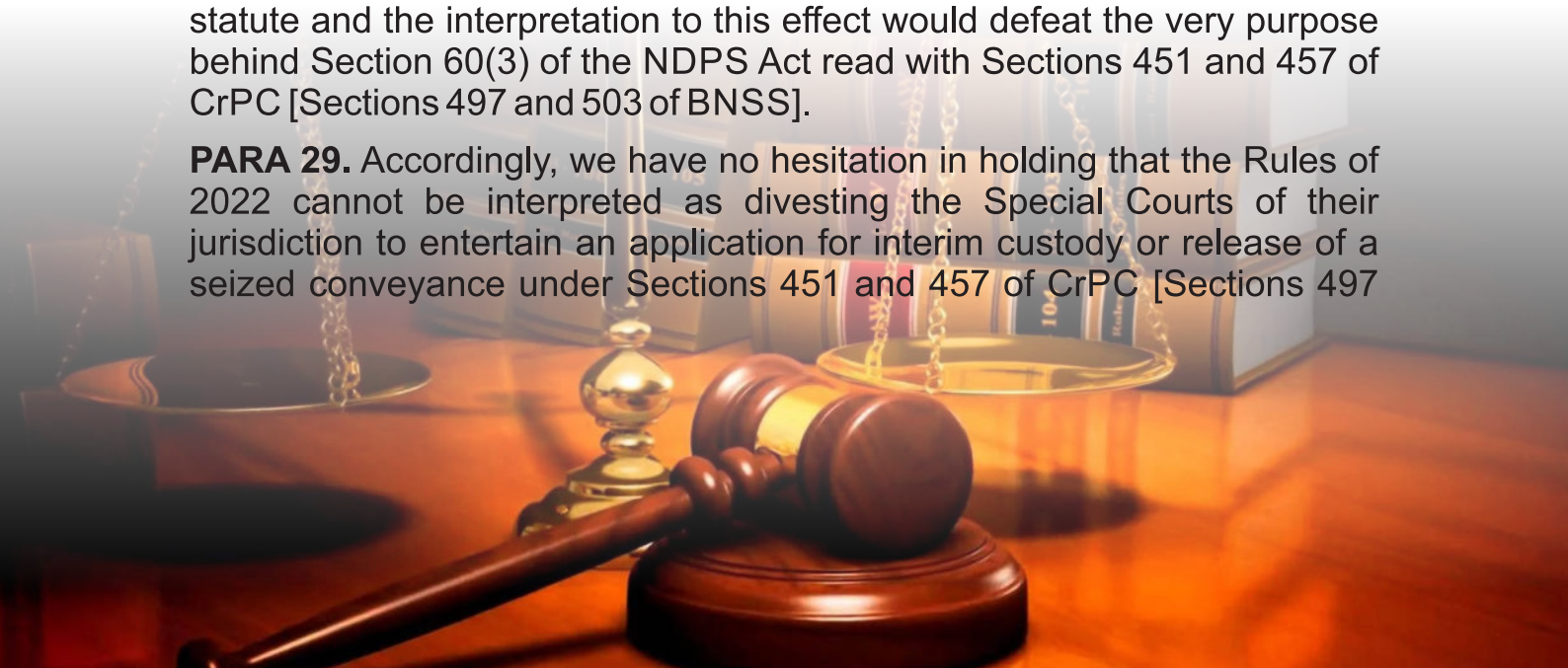
PARA 23. Let us take two examples:

(a) The vehicle owned by one 'X' is stolen and thereafter, the thief uses the said conveyance to transport narcotic or psychotropic drug. In such a situation, would it be justified in leaving the innocent owner to undergo the ordeal of moving the Drug Disposal Committee after waiting for the arrival of the chemical examiner's report, before the vehicle can be released?

(b) Where a bona fide transporter, assigns his transport vehicle to a driver and the said driver, in the process of carrying the consigned goods, collects some narcotic material on the way and is apprehended. In such a situation, would it be justified to leave the owner of transport vehicle to await the chemical examiner's report and then approach the Drug Disposal Committee for release of the vehicle?

PARA 24. Our answer is in the negative. This can never be the intent of the statute and the interpretation to this effect would defeat the very purpose behind Section 60(3) of the NDPS Act read with Sections 451 and 457 of CrPC [Sections 497 and 503 of BNSS].

PARA 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.

PARA 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.

PARA 31. In the present case, it is manifest that the appellant is the true owner of the vehicle, having valid documents. The vehicle was lawfully engaged for transportation of iron sheets weighing 29,400 MT. The seized drug, i.e., 6 kilograms Ganja was found in possession of the four accused persons present in the vehicle. Neither was the appellant chargesheeted in the matter nor did the prosecution allege him to be acting in conspiracy. As a necessary corollary, it can safely be presumed that the said contraband must have been procured by the drivers and/or the khalasis without the knowledge or connivance of the appellant.

PARA 34. Although, on a superficial reading, the present case might appear to fall within the second scenario delineated in **Bishwajit Dey (supra)**, where contraband is recovered from the owner's agent (driver) who is arrayed as an accused, however, the application of criminal law cannot be reduced to a rigid or mechanical formula. Each case must be examined in light of its peculiar facts and circumstances. In the present matter, a holistic consideration of the record reveals that the facts do not align strictly with the said category for the following reasons: -

i- Firstly, the appellant is the lawful owner with valid documents, and the vehicle was commercially engaged in transporting a valuable consignment of 29,400 MT of iron sheets. It is highly improbable to believe that he would risk both the costly vehicle and the high value consigned goods and his business goodwill by knowingly allowing narcotics to be transported along



with the cargo. ii- Secondly, the contraband, i.e., 6 kilograms of Ganja was recovered from the four chargesheeted accused persons. iii- Thirdly, the appellant was not arraigned as an accused and the chargesheet contains no material suggesting that the appellant had knowledge of or connived in the offence. iv- It can thus, safely be presumed that the said contraband must have been procured by the drivers and/or the khalasis without the knowledge or connivance of the appellant.

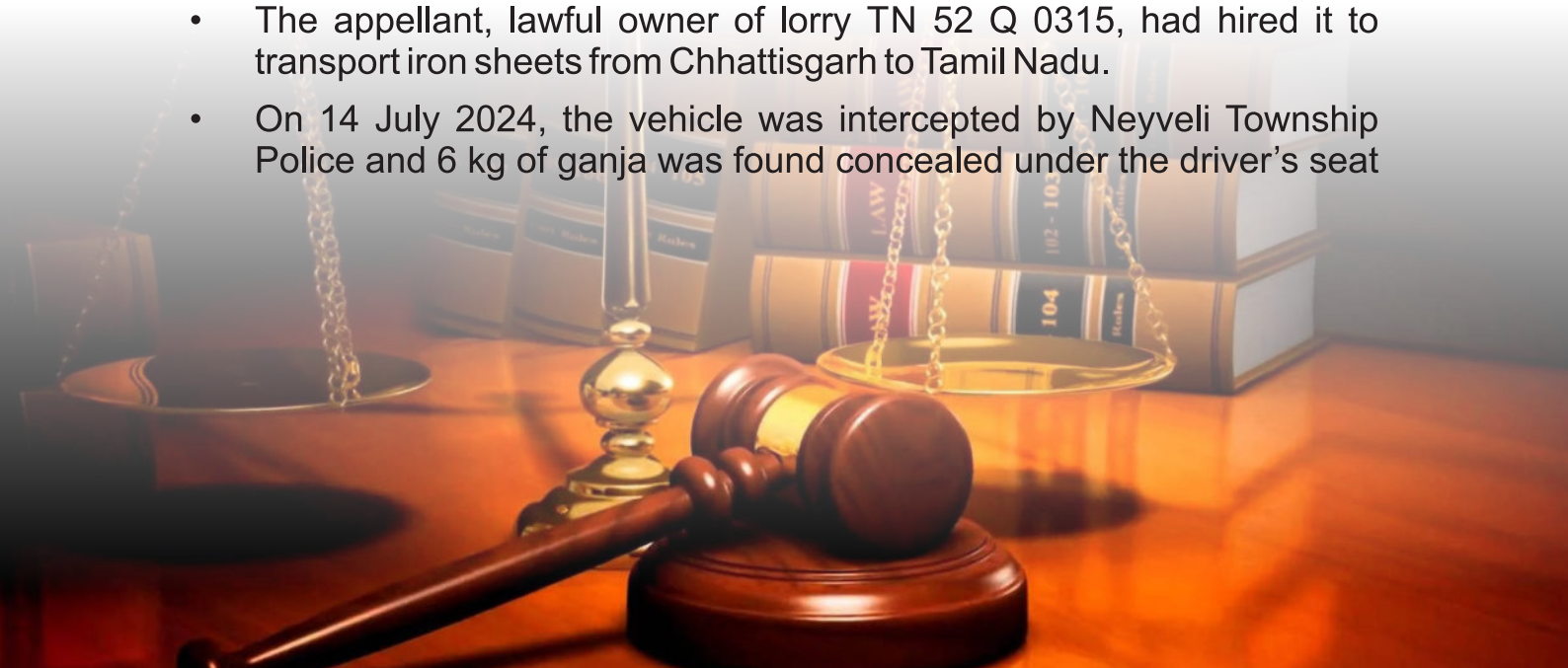
PARA 35. In view of the above, while the present case may technically correspond to the second scenario as enumerated in paragraph 29 of **Bishwajit Dey (supra)**, the peculiar factual matrix warrants a more pragmatic approach. It would, therefore, be expedient in the interest of justice to grant interim custody of the vehicle to the appellant, as the overall circumstances clearly indicate his bonafides and absence of any involvement in the drugs being carried in the vehicle.

PARA 36. In wake of the discussion made hereinabove, the appeal deserves to succeed. The impugned judgment dated 20th December, 2024 passed by the High Court is accordingly set aside. The vehicle bearing Registration No. TN 52 Q 0315 shall be released on supurdagi to the appellant on such terms and conditions, which the Special Court may impose.

The Supreme Court held that the Special Court under the NDPS Act retains jurisdiction to grant interim custody of vehicles seized under the Act, despite the 2022 Rules empowering the Drug Disposal Committee for disposal of seized articles. The Court ruled that subordinate legislation such as the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, cannot override the parent statute or curtail judicial powers under Sections 451 & 457 CrPC (now 497 & 503 BNSS). The appeal was allowed, setting aside orders of the High Court and Special Court, directing release of the vehicle to the owner on suitable conditions.

KEY POINTS:

- The appellant, lawful owner of lorry TN 52 Q 0315, had hired it to transport iron sheets from Chhattisgarh to Tamil Nadu.
- On 14 July 2024, the vehicle was intercepted by Neyveli Township Police and 6 kg of ganja was found concealed under the driver's seat



and on three other occupants.

- Crime No. 220/2024 was registered under Sections 8(c), 20(b)(ii)(B), 25, and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
- The appellant was not arrayed as an accused in the charge sheet but sought interim custody of the lorry under Section 497 BNSS (formerly 451 CrPC).
- The Special Court, Thanjavur, rejected the application holding that seized vehicles are liable for confiscation under Section 63 NDPS Act and cannot be released pending trial.
- The Madras High Court (Madurai Bench) upheld the rejection, stating that under the NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, disposal lies exclusively with the Drug Disposal Committee.
- The NDPS (Seizure, Storage, Sampling and Disposal) Rules, 2022, are subordinate legislation and cannot override the parent NDPS Act.
- Sections 60(3) and 63 of the NDPS Act vest the power of confiscation in the Special Court, not in the Drug Disposal Committee.
- The Rules of 2022 provide for physical disposal of seized items but do not empower the Committee to decide interim custody or ownership disputes.
- The right of a bonafide owner to seek interim custody cannot be defeated by administrative rules.
- The Special Court has powers under Sections 451 & 457 CrPC (now 497 & 503 BNSS) to order interim release of seized property pending trial.
- Confiscation can only be ordered after a full trial ensuring compliance with natural justice.
- Thus, the High Court erred in holding that the Special Court's powers were excluded by the 2022 Rules.

