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**IN THE COURT OF 12th ADDTL. SESSIONS JUDGE,
SURAT.**

**CRIMINAL MISC. (MUDDAMAL) APPLICATION NO.
1063 of 2026**

Exh.5

APPLICANT : Becharbhai Karmanbhai Solanki,
(ACCUSED) Aged about 39 years,
Occupation: Job (Fire Officer, Gr. 3),
Residing at A-201, Officer Quarters,
Sarhana Fire Station, Surat.

Vs.

OPPONENT : The State of Gujarat
(To be served through the
Public Prosecutor,
District & Sessions Court, Surat.)

APPEARANCE:

Mr. A. D. Jadhav, Learned Advocate for the Applicant.

Mr. N. M. Chodvadiya, Learned APP for the State of Gujarat.

**Application under Section 497 of the
Bharatiya Nagrik Suraksha Sanhita, 2023 for Muddamal**

:: J U D G M E N T ::

[1.00] The applicant has filed present application under the provision of Section 497 of the Bharatiya Nagrik Suraksha Sanhita, 2023 ("BNSS" for short), for getting interim custody of the two mobile phones, namely, a mobile phone of Apple Make, Model: I-Phone Pro Max and a mobile phone of Samsung Make, Model: Galaxy S10 Lite 512 GB, 8 GB Ram, Colour: Prism Black (hereinafter referred to as 'mobile phones' for the sake of convenience), which have been seized by the Investigating Officer in connection with the offences punishable under Sections - 7, 7(A), 12 and 13(2) of Prevention of Corruption Act, 1988, registered with Surat City ACB Police Station, being C. R. No. 11194022220002/2022, on the grounds stated in the application.

[2.00] Upon service of notice, learned APP, Mr. N. M. Chodvadiya has appeared on behalf of the opponent – State of Gujarat. The Investigating Officer has also remained present before the Court and filed his report *vide* Exh.4.

[3.00] Mr. A. D. Jadhav, learned Advocate for the applicant, has submitted that the applicant is the true and lawful owner of the said mobile phones and the phones were seized during the investigation; and, that after completion of the investigation, the Investigating Officer has filed the chargesheet, which is registered as ACB Case No.02/2025, and trial is likely

to take long time for its conclusion. It has been submitted that the said mobile phones are regularly used by the applicant and owing to seizure of the said mobile phones by the police, the applicant is facing difficulties as many important numbers are saved in the device and also containing important digital documents, and the applicant is also facing other hardships. He has further submitted that the mobile phones are presently lying idle in the police station and in absence of proper care and safety measures, the devices are likely to be rendered useless and obsolete. Mr. Jadhav has further submitted that the applicant has filed this petition seeking interim custody of his mobile phones and the applicant is ready and willing to abide by all or any conditions that may be imposed by the Hon'ble Court. He has further submitted that no other person has put forth any claim of ownership or custody of the said mobile phones and hence, this application may be allowed as the applicant is the sole owner and they have been recovered by the Investigating Officer from him.

[4.00] *Per contra*, Mr. N. M. Chodvadiya, learned Advocate for the opponent-State, has submitted that the mobile phones of the applicant were used in the commission of alleged offences and if its interim custody is given to the applicant, then, there is a likelihood of it being used for threatening the witnesses of prosecution and is likely to be used for similar purpose in future and, therefore, the present application may be rejected. He has also filed the report of Investigating Officer at Exh.4 wherein similar contentions have been made and it is opined that the mobile phones should not be handed over to the applicant.

However, it is further stated in the report that no incriminating material/video or audio recording relating to the alleged incident is stored in the muddamal mobile phone, but, call logs are stored and there is possibility of the said call logs being deleted and therefore, the application may kindly be rejected.

[5.00] Having heard the rival contentions of the learned Advocate for the applicant as well as learned APP for the State and on going through the application preferred by the applicant as well as documents produced in support thereof, it is pertinent to note at the outset that it is undisputed fact that muddamal mobile phones have been seized by the Investigating Officer of Surat City ACB Police Station in connection with the alleged offences registered vide C.R. No. 11194022220002/2022. It is evident from the record that the Investigating Officer has seized two mobile phones from the present applicant. It is the case of applicant that he is the owner and occupant of the mobile phones mentioned in the application and to prove the possession of the mobile phones, the applicant has produced the affidavit with regard to both mobile phones. On perusal of the report filed by the Investigating Officer at Exh.4, it is transpired that he has not stated therein that the muddamal mobile is needed for any investigation purpose. In the considered view of this Court, if there is no need of the mobile phone for further investigation by the Investigating Officer, keeping the mobile phones idle will spoil the electronic item and make it obsolete and the present application deserves to be entertained.

[6.00] In light of the foregoing discussion, considering the documentary evidence produced by the applicant for claiming interim custody of the mobile phone and given the principles enunciated by the Hon'ble Apex court in case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat - 2003(1) GLH 307*** regarding muddamal articles, this Court is of the considered view that the interim custody of the muddamal mobiles is required to be handed over to the present applicant and the present application is required to be allowed subject to certain conditions. Hence, the following order is passed:

:: ORDER ::

- (1) The present application is hereby Allowed.
- (2) The Investigating Officer, Surat City ACB Police Station is hereby directed to handover to the applicant the interim custody of muddamal mobile phones, namely, (i) mobile phone of Apple Company, Model: i-phone Pro Max (ii) mobile phone of Samsung Company, Model: Galaxy S10 Lite having IMEI No.355271110611975, which are seized in connection with C.R. No. 11194022220002/2022 for the offences punishable under Sections - 7, 7(A), 12 and 13(2) of Prevention of Corruption Act, 1988, subject to his executing a personal bond of Rs.75,000/- (Rupees Seventy Five Thousand) and furnishing a surety of the like amount and on conditions that he;
 - (a) shall not use the mobile phones for any illegal activities;
 - (b) shall not sell, transfer or alienate the mobile phones in any manner whatsoever pending the trial, and shall produce the mobile phones before the police or this Court as and when called

upon to do so for the purpose of further proceedings in the matter at his own costs;

(c) shall not tamper or make any alterations with the mobile phones in any manner whatsoever so as to render them unidentifiable or that it may change the identity of the mobile; and,

(d) The Investigating Officer shall take three photographs of the muddamal mobile phones from three different angle for its identification during the trial and prepare a detailed report in that regard.

(3) Yadi be sent to the Nazir, District Court, Surat as well as Police Inspector, Surat City ACB Police Station for due compliance.

Signed & Pronounced in the open Court today i.e. on this 26th day of February, 2026.

Date : 26/02/2026.

Place: Surat.

Dhruvil Kumpavat

(Kamlesh Nathabhai Prajapati)
12th Additional Sessions Judge, Surat
(Code: GJ00886)