

CRMA No. 70 of 2026**- ORDER BELOW MUDDAMAL APPLICATION UNDER SECTION 497 OF****BHARTIYA NAGRIK SURAKSHA SANHITA -**

Applicant :- Dhobi Nileshkumar Mafatbhai

Police Station:- Sanand Police Station.

Crime Register No:- FIR No. 11192050250796/2025.

Offence:- U/s. 65(a)(e),116-B, 81, 98(2)of The Gujarat Prohibition Act.

Appearance:- Ld. Advocate Mr. M. H. Senva for the Applicant.
Ld. A.P.P Mr. N.R. Rana for the State.

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- 1] The applicant has filed the present application seeking interim custody of his Maruti Swift VXI Car Bearing Registration No. GJ-38-BF-5551 (Chassis No. MBHCZCB3SPFC8589 & Engine No. K12NP1443427) - Maruti Suzuki India Ltd. (*hereinafter referred to as the "muddamal"*) which was seized in connection with the above referred offence under The Gujarat Prohibition Act.
 - 2] Heard Ld. Advocate appearing on behalf of the applicant and Ld. Asst. Public Prosecutor for the State. The Ld. A.P.P has endorsed his seen and objection on the present application. The Ld. Advocate for the applicant has submitted that though the muddamal vehicle has been seized in connection with the alleged offence, the same is lying idle at the police station and is likely to deteriorate. It is further submitted that the applicant is the registered owner of the muddamal and the same is required for his day to day personal use. Moreover, if the custody of the muddamal - vehicle is not given to the applicant, then it may be damaged, and in future, it may not be in a position for use, and also the applicant is ready to abide by all the conditions imposed by the Court, hence has prayed to allow the present application.

- 3] In the present matter, it is pertinent to refer to the principles laid down by the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat, AIR 2003 SC 638**, whereby it has been held as under:-

“Powers under section 451 should be exercised expeditiously and judiciously It would serve various purposes, namely – (1) Owner of the article would not suffer because of its remaining unused or by its misappropriation; (2) Court or the police would not be required to keep the article in safe custody; (3) If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and (4) This jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles”.

- 3.1] Hence, considering the facts of the present case, and the principle rendered in **Sunderbhai Ambalal Desai** (supra), as aforesaid, if the interim custody of the muddamal article is handed over to the applicant on certain terms and conditions, no prejudice would be caused to the prosecution. And that it serves no purpose to keep a seized muddamal idle in a police station for a long period, and the Magistrate should release the muddamal on appropriate conditions to prevent its deterioration.

- 4] Having heard both the sides, and on perusing the record, as well as the opinion filed by the I.O at Exh.4, looking to the facts and circumstances of the matter, it appears that as per the copy of the Registration Certificate of Vehicle Bearing Registration No. GJ-38-BF-5551, the present applicant prima-facie appears to be the owner of the seized vehicle, and it is very likely that if it is continued to be kept in the police station, it may no longer be of use & may get damaged and it would

become useless without proper care and maintenance, therefore, the applicant will suffer a great loss and he would not be able to use the vehicle. Moreover, applying the principles laid down by the Hon'ble Apex Court in case of ***Sunderbhai Ambalal Desai vs. State of Gujarat, reported in (2003(2) GLR 1337)***, it is evident from the record that the seized muddamal has been produced before this court under a proper panchnama, and might be required as material evidence during the trial.

- 5] Moreover, the present application has been filed by Mr. Nileshkumar Mafatbhai Dhobi; however, the muddamal vehicle is confiscated from Amankhan Bashirkhan Pathan only as per the police opinion as well as the panchnama; but, the owner as per the RC Book is Mr. Nileshkumar Mafatbhai Dhobi and he has not been named in the present FIR. Hence considering the same, it may be given in the name of the present applicant Mr. Nileshkumar Mafatbhai Dhobi after due and proper verification.

In view of the above discussions, the present application filed by the applicant for releasing his muddamal deserves to be allowed by imposing suitable conditions. Hence, I pass following order:-

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1. The present muddamal application for interim custody of the muddamal-Maruti Swift VXi Car Bearing Registration No. GJ-38-BF-5551 (Chassis No. MBHCZCB3SPFC8589 & Engine No. K12NP1443427) is hereby ***conditionally allowed***.
2. The concerned Police Station is directed to hand over the muddamal - vehicle to the applicant, after due and proper verification and identification, on his executing a bond to one and half times the value of the muddamal as mentioned in the seizure memo, by way of interim custody pending the trial on the following conditions:-
 - (a) The applicant shall file an undertaking before this Court to the effect that he shall not transfer or part with the possession of the muddamal

vehicle in any manner without prior permission of the Court and shall also produce the said muddamal as and when required.

- (b) The applicant shall not use the said muddamal for any illegal or unlawful purpose in the future.
- (c) The applicant shall not change the physical condition of the muddamal vehicle except carrying-out the necessary repairs as and when required.
- (d) The concerned Police Station, while handing over possession of the said muddamal to the applicant, shall take clear photographs of the said muddamal.
- (e) The Concerned Police Station shall ensure that the conditions laid down by the Hon'ble Apex Court in the case of **Sunderbhai Ambala Desai and C. M. Mudaliar vs. State of Gujarat; (2002) 10 SCC 283** as to preparation of panchnama and photographs of the vehicle, be followed at the time of release of vehicle.
- (f) Yadi of this order be sent to the concerned Police Station.

Order signed and Pronounced in the open Court today on this 18th day of March, 2026.

Date: 18-03-2026.

Place: Sanand.

(K.V. Pathak)

Additional Judicial Magistrate First Class,
Sanand, Ahmedabad (Rural).