



IN THE COURT OF HON'BLE ADDITIONAL DISTRICT &
SESSIONS JUDGE AHMEDABAD(RURAL) AT DHOLKA.

Criminal Miscellaneous Application No.63 of 2026

Exh.

Applicant: Irfansha Amirsha Fakir

Age:48 years, Occup:Driving,
R/o 6-395, Nr. Shipaiwada Nagarwada,
Taluka-Dholka, District-Ahmedabad.

V E R S U S

Opponent: The State of Gujarat.

Sub: An application U/s 497 of B.N.S.S., 2023 to get back the
Muddamal article.

Appearances:-

Learned Advocate Mr. M.M. Shaikh for the applicant.

Learned P. P. Mr. J.C. Patel for the Opponent-State.

:-O R D E R:-

1. The applicant has filed the present application under the provision of Section 497 of B.N.S.S., 2023 for getting back his Muddamal article i.e. one Motorcycle of Hero Motor Crop Ltd. Company bearing Model Name Spelendor+ motorcycle bearing **RTO No.GJ-38-AN-4376, Chassis No.MBLHAW236R5E42679** and Engine **No.HA11E8R5E56426** (hereinafter referred to as 'Muddamal motorcycle') which has been seized in connection with the FIR being **C. R. No.11192008250586/2025** registered with **Bavla** Police Station for the offences punishable U/s **137(2) & 87** of the Bharatiya Nyay Sanhita, 2023 coupled with

Section 12 of the POCSO Act and Section **3(2)(5)** of the Atrocity Act.

2. Heard, the Ld. Advocate for the applicant and Ld. Public Prosecutor for the State.
3. The Ld. Advocate for the applicant has vehemently argued that the applicant is the original owner of the muddamal motorcycle which was seized during the investigation of the said case. It is further submitted that muddamal motorcycle is neither directly nor indirectly connected with the alleged offence and police officials have wrongly seized the muddamal motorcycle of the applicant. It is further submitted that the said muddamal motorcycle is an essential need for transportation facility of the applicant, therefore, without the motorcycle, the applicant is facing problem for his transportation. It is further submitted that applicant is having only facility to go anywhere and without his motorcycle, he is causing inconvenience in his daily work as well as for income. It is further argued that in the present case, investigation has been completed, the charge-sheet has been filed and the case is registered as POCSO Case No.23/2025, therefore, there is no need to keep the motorcycle in the police custody and if the Muddamal motorcycle may be kept for long time at the Police Station, it is likely to cause damage to its engine, body, colour, battery, tyre parts, accessories etc. and therefore, there is no need to keep in the police custody. The Ld. advocate for the applicant has filed the 'No Claim Pursis' vide Exh.4 stating therein that the accused has no objection, if the muddamal motorcycle may be handed over to the applicant. It is further submitted that applicant is ready to abide by all the

conditions deem necessary by this Hon'ble Court if the muddamal released and handed over to the applicant and lastly prayed to allow the present application.

4. *Per-contra*, the Ld. P.P. Mr. J.C. Patel has appeared before the court and also submitted the report of the I.O. at Exh.6 and vehemently argued that in the present case, victim/prosecutrix is merely aged about 15 years 7 months & 5 days belongs to scheduled castes, however, the accused has enticed the minor victim and abducted/kidnapped the victim from the legal guardianship of the complainant with intention to get marry with her on the muddamal motorcycle and thereby, the applicant/accused has committed very serious offence, therefore, even though, the present applicant is not the accused but the said muddamal motorcycle used in the very serious crime and present muddamal motorcycle was used by the accused person and if the muddamal motorcycle may be given to the applicant, there is every possibility that accused may again use the said muddamal motorcycle in cognizable offence. It is further submitted that the applicant/the owner of the muddamal motorcycle has given his motorcycle to use in the serious crime therefore, if the muddamal motorcycle may be given to the applicant, there is every possibility that accused may sell the muddamal motorcycle or it is possible to again use the said muddamal motorcycle in cognizable offence and therefore, the present application is required to be rejected.
5. I have gone through the application, report of IO and documentary evidences produced on record and also considered the arguments advanced by Ld. Advocates of both the sides.

6. Considering the facts & circumstances of the subject matter and report of the IO, it appears that the muddamal motorcycle has been seized by the IO in connection with the aforementioned offences. Moreover, from the documents adduced on record i.e. R.C. book of muddamal motorcycle, it appears that the present applicant is the sole owner of the said motorcycle. Moreover, the applicant has filed 'No Claim Pursis' vide Exh.4 on behalf of the accused stating therein that other accused has no objection, if the muddamal vehicle be handed over to the present applicant and this fact is also required to be considered. Further, it also appears that the applicant is not the accused of the said offence. Further, in the present case, muddamal Article is a motorcycle and if the same is kept for long time at the Police Station, it is likely to cause damage to its body part, colour, engine, battery etc. and therefore, if the interim custody of such Muddamal motorcycle be given to the applicant with stringent conditions it would meet with end of justice.
7. Now, so far as the subject matter of the present case is concerned, the Hon'ble Supreme Court in Special Leave Petition [Crl.] 2745 of 2022 in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** has observed as under;

"However, these powers are to be exercised by the concerned Magistrate. We hope and trust that the concerned Magistrate would take immediate action for seeing that powers U/s. 451 of the Cr.P.C. are properly and promptly exercised and articles are not kept for long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved, if there is the High Court with regard to such articles are implemented properly".
8. Thus, in view of the above observation made by the Hon'ble Supreme Court and considering the facts & circumstances of the present matter and no claim pursis filed by the applicant vide

Exh.4, therefore, the interim custody of the Muddamal motorcycle seized in connection with the above offences is required to be released and handed over to the applicant on proper identification and hence, the following order is passed in the interest of justice:

:- O R D E R :-

- The **Criminal Misc. Application No.63 of 2026** is hereby **allowed**.
- The interim custody of Muddamal article i.e. one Motorcycle of Hero Motor Crop Ltd. Company bearing Model Name Spelendor+ motorcycle bearing **RTO No.GJ-38-AN-4376, Chassis No.MBLHAW236R5E42679** and Engine **No.HA11E8R5E56426** seized in connection with the FIR being **C. R. No.11192008250586/2025** registered with **Bavla** Police Station for the offences punishable U/s **137(2) & 87** of the Bharatiya Nyay Sanhita, 2023 coupled with Section 12 of the POCSO Act and Section **3(2)(5)** of the Atrocity Act, if found not involved in any other offence, is hereby ordered to be released and hand over to the applicant-**Irfansha Amirsha Fakir** on furnishing personal bond of **Rs.10,000/- (Rupees Ten Thousand Only)** on the following terms and conditions that the applicant shall:
 1. not make any material alteration to the effect of the identity of the muddamal motorcycle and has to maintain the real conditions of the muddamal motorcycle as it is at his/her own cost till the final disposal of the case.
 2. not to modify the muddamal motorcycle in any manner

whatsoever except repairing;

3. not transfer, sale, alienate, gift or mortgage the said muddamal motorcycle by any means to any one till the final disposal of the case.
 4. Produce the muddamal motorcycle before the Court as and when required by the Court at his own expenses;
 5. Photographs of the muddamal motorcycle from all the six angles at his own expenses be produced on the record of the PI/SHO of concerned Police Station while executing Personal bond;
 6. Not use the muddamal motorcycle in any illegal activity;
- Personal bond be furnished before the PI/SHO of concerned Police Station.
- Yadi be sent to the concerned Police Station.

Signed & Pronounced in the open Court on this 13th day of April, 2026.

Date :13/04/2026.
Place:Ahmedabad.
P.D.Mishra

[Naresh Girikant Dave]
Additional District & Sessions Judge,
Ahmedabad(Rural) at Dholka,
(UIC No.GJ00467.)