

**Order Below Application to release Muddamal u/s.497 & 503 of the Bharatiya
Nagarik Suraksha Sanhita, 2023.**

1. The Applicant has filed present application to release amount which has been freezed by the Cyber Crime Unit. The Applicant is victim of Cyber Fraud and as and when the applicant came to know about the fraud which has been occurred with the him/her, the applicant immediately taken help of Cyber Crime Unit and the amount which was transferred from his/her account was freezed by the Cyber Crime Unit. The Applicant has prayed before this Court to release the amount which has been freezed by the Cyber Crime Unit. The Details of the Applicant as well as freezed amount(s) are as under;

Sr. No.	Name	Bank Details	Amount (Cheated)	Bank Details of Suspicious Person	Freezed Amount
1	Sanjay Khimabhai Kavad	State Bank of India, A/c No. 33256689129, (IFSC Code- SBIN0004153)	1,23,000/-	State Bank Of India, A/c No. 33296208892, (IFSC Code- SBINOOOO385)	1,450/-
				State Bank Of India, A/c No.33296208892, (IFSC Code- SBINOOOO385)	1,000/-
				State Bank Of India, A/c No.20054269482, (IFSC Code- SBINOOO6579)	880/-

				The Eenadu Cooperative Urban Bank Ltd, A/c No.1010005000178, (IFSC Code- HDFC0CEENAD	2,243/-
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Sr. No.	Date of Complaint	Ticket / Complaint No.
1.	1930/ 14.08.2025	31108250159394

2. The opinion of Dy. Superintendent of Police, State Cyber Crime Cell, CID Crime, Gandhinagar was called for by the Investigating Officer of concerned Police Station. He has opined that on the complaint of the complainant above referred amount was/were freezed in suspicious Bank Accounts. He has clearly opined that the amount may be returned to the applicant, as per the condition of the Hon'ble Court.
3. Looking to the facts of the case, there is no FIR has been filed in present case and no one has been arrested in this regard. Though the long time has been passed, no one has come before to release the freezed amount except the applicant. As per the opinion of the competent authority, the account in which amount is/are freezed found suspicious and hence amount is/are required to be returned to the applicant. Before deciding present application, provisions of Section-457 is required to be taken into consideration, which reads as under;
4. **Section:497:-Order for custody and disposal of property pending trial in certain cases under the BNSS, 2023.**

497. (1) When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do,

the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.—For the purposes of this section, "property" includes—

(a) property of any kind or document which is produced before the Court or which is in its custody;

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

(2) The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile phone or any electronic media, of the property referred to in sub-section (1).

(4) The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5) The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.

5. Section:503:-Procedure by police upon seizure of property. under the BNSS, 2023.

- (a) Whenever the seizure of property by any police officer is reported to a Magistrate under the provisions of this Sanhita, and such property is not produced before a Criminal Court during an inquiry or trial, the Magistrate may make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and*

production of such property.

- (b) *If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit and if such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.*

6. In view of the above provisions, as per section-503(1) the Magistrate is empowered to release the property which was/were seized by the Police Officer during investigation. Further, the Hon'ble Gujarat High Court in **Govind Tejabhai Bariya Vs. State of Gujarat**, 2001(2) GLH 726 has held in para no.(9.2), (10) and (22) as under;

(9.2)..... Shri Pandya has cited so many authorities with regard to legal possession of Sec. and Sec. of Cr.P.C. Here in this case owner lodged a complaint in the police station for which offence has been registered for theft having been committed in respect of two vehicles. That two vehicles have been found from the possession of the purchaser but at the same time the investigating Officer has come to a conclusion that complainant has filed a false case and therefore muddamal vehicles are seized during the course of the police investigation and Investigating Officer has reported about such seizure of two vehicles, from the purchaser to the Court and therefore Section 457 of CrPC will be applicable. In no case Sec.451 Cr.P.C. will be applicable to this case. Sec.457 of Cr.P.C. Reads as follows:

- (10) On reading aforesaid section, it is crystal clear that word "may make such order as he thinks fit" are of much importance. When word 'may' is used discretion has been given to the Ld. Magistrate, of course that discretion is to be exercised judicially keeping in mind the well settled principle of law. The words "to the

person entitled to the possession thereof" are also important and relevant. As discussed earlier, when the Ld. Magistrate has followed the decision of this Court, in **Hussain Amitbhai Qureshi** (supra), it cannot be said that he has passed an order contrary to well settled legal position with regard to return of muddamal articles under Sec.497 and 503 of the BNSS. pending the inquiry. In view of the above discussions as well as facts of the case, this Court is of the view that there will not be any dispute regarding identification of muddamal in future. Further as held in the Judgment of Hon'ble Supreme Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat**, 2003(1) G.L.H. 307, the application is required to be allowed and in the interest of justice, I pass the following order.

:: O R D E R ::

1. The application preferred by an applicant is hereby allowed u/s.497 & 503 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The Applicant is ordered to provide guarantor of one and half time amount of **Rs.5,573/-** which were freezed by the Cyber Crime Unit before concerned police station and Investigation Officer is directed to release the amount as interim custody in the Bank of Applicant as mentioned above, on following conditions.
2. The copy of this order be forwarded to the Applicant's Bank i.e. **State Bank of India, A/c No. 33256689129, (IFSC Code- SBIN0004153)** and the Bank Officials are directed to transfer the Freezed Amount in the Account of Applicant and inform to the Concerned Police Station Accordingly.

Conditions:

- a) *The Applicant is directed to produce Muddamal before this Court as and when requires.*
- b) *If the Account Holder of Freezed account claims the money in future, in that case the applicant has to surrender the amount which is transferred in his account.*
- c) *Until final disposal of this case, applicant is directed not to transfer amount of Muddamal to any other person.*
- d) *Muddamal amount should not used in any illegal act.*
- e) *In case of breach of any condition, interim order of Muddamal*

amount will automatically canceled and the amount of muddamal will seized and amount of guarantor will be required to be deposited before this Court.

Pronounced & signed in the open Court today on this 08th day of June, 2026 .

Dt:08/06/2026
Jafrabad

[Prakashchandra Manharbhai Kamdar]
Judicial Magistrate First Class, Jafrabad,
UID. No.GJ01697