

GJAM140003522026



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Exh. _____

**IN THE COURT OF 2nd ADDL. DISTRICT AND
SESSIONS JUDGE, RAJULA, DIST. AMRELI**

CRI. MISC. MUDDMAL APPLICATION NO. 173 OF 2026

Applicant : Pankeshbhai @ Dhoni Laxmanbhai Baraiya,

age:- 28 yrs., Occup. : fisheries business,

Residing at Pipalikatha, At Jafrabad, Dist. Amreli.

Vs.

opponent : The State of Gujarat.

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Appearance ::

Mr. M. M. Lalwani - Ld. Advocate for the applicant.

Mr. B. M. Shiyal - Ld. Addl. P. P. for the opponent - State

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

[1] The applicant **Pankeshbhai @ Dhoni Laxmanbhai Baraiya** has given this application u/s.497 of the BNSS for interim custody of Honda Motorcycle No. GJ-14-BC-6915, Chessis no. ME4JC83FAPG054093 Engine no. JC83EG3500331. Model name :- SP 125 DISK seized by the police in connection with the offence registered with Jafrabad

*Police Station vide I C.R. No. **11193024260093/2026** for the offences punishable under Secs. 115(2), 137(2), 189(2), 191, 309(4), 352, 351(3), 54, 140(3), 117(2), 190, 191(2)(3) of BNS, Section 135 of GP Act and Scheduled Castes and Scheduled Tribes Prohibition Act Section 3(1) (r), 3(1) (s), 3(2)(v), 3(2)(va).*

[2] *It is alleged that the applicant is the owner of said Honda SP 125 Motorcycle No. GJ-14-BC-6915,*

[3] *Heard Mr. M. M. Lalwani - Ld. Advocate for the applicant and Mr. B. M. Shiyal - Ld. Addl. P. P. for the opponent - State.*

[4] *Mr. M. M. Lalwani - the Ld. Advocate for the applicant submitted that the applicant is the owner of motorcycle and the said motorcycle is recovered by the police from him. The applicant shall abide by any condition imposed by the court.*

[5] *Mr. B. M. Shiyal, learned Addl. Public Prosecutor for the State, submitted that, applicant **Pankeshbhai @ Dhoni Laxmanbhai Baraiya** involved in the offence u/s. Secs. 115(2), 137(2), 189(2), 191, 309(4), 352, 351(3), 54, 140(3), 117(2), 190, 191(2)(3) of BNS, Section 135 of GP Act and Scheduled Castes and Scheduled Tribes Prohibition Act Section 3(1) (r), 3(1) (s), 3(2)(v), 3(2)(va). The said motorcycle is of applicant **Pankeshbhai @ Dhoni Laxmanbhai Baraiya** who is involved in the said offence. The applicant may again used this motorcycle in criminal activity. Therefore, learned Addl. P. P. prayed to dismiss the application.*

[6] *Having heard both the parties and perused the documents.*

[7] *From the R.C. Book vide Mark 3/3, it appears that the applicant is owner of the said motorcycle.*

[8] *Applicant's Advocate submitted NOC of SHRIRAM FINANCE LTD. vide **Exh. 6** that he has no objection and will not claim, if the said motorcycle will give to the applicant of present application.*

[9] *Probably said motorcycle is not required to be brought before the court during the trial as secondary evidence like photograph of the motorcycle is admissible u/s. 65 of the Evidence Act.*

[10] *In view of the judgment of Hon'ble Supreme Court in the case of*

Sunderlal Ambalal Desai

Vs.

State of Gujarat,

2003 (1) G.L.H. 307 (SC)

In the above cited case, in view of Sec. 451 of the Code of Criminal Procedure, for disposal of muddamal articles seized by the police in any criminal case, the Hon'ble Supreme Court has given some guidelines and directions that the Magistrate should dispose off the muddamal articles as early as possible within 30 (thirty) days by handing over such

muddamal to the person entitled for it. The Magistrate should see that, such muddamal like cash, gold & silver ornaments, vehicles etc. should not remain lying in the police station as there is no facility in the Police Stations to keep it safely. Such valuable muddamal is likely to be stolen or misappropriated. Further, it is observed that, it is of no use to keep the seized vehicles or other muddamal articles at Police Stations for a long period. It is for the Magistrate to pass appropriate order immediately by taking Bond and Guarantee as well as Security for return of such muddamal articles. The Magistrate should exercise such powers expeditiously and judicially. The Hon'ble Supreme Court has mentioned in the said judgment that, Magistrate should see that articles are not kept for a long time at the police station in any case for not more than 15 days to One month.

However, the above referred judgment is for interim custody of the muddamal articles, the principles laid down by Hon'ble Supreme Court are applicable for disposal of such muddamal articles even at the conclusion of the trial.

[11] It is the duty of the Judge/ court to see any valuable muddamal article seized by the police in any criminal offence should not remain lie in the police station, as there are all possibility of being stolen, being damaged due to non-use as well as due to atmosphere and due to insufficient space in the police station, to keep the muddamal article safe. One should not see the muddamal article as an criminal offender.

It is the duty of the Judge to see that such muddamal articles are disposed of as early as possible either by handing over interim custody or otherwise. The criminal court has not to decide the ownership of the article. The custody of muddamal article can be handed over to the person, who is the best entitled to get it back.

[12] The muddamal article motorcycle may be damaged, due to non-use as well as in absence of proper care, if it remains in police station for a long time. Therefore, in view of the guidelines given by in the case of Sunderlal Ambalal Desai (supra), following order is passed.

- :: O R D E R :: -

This application is allowed.

*The interim custody of muddamal Honda Motorcycle No. GJ-14-BC-6915, Chessis no. ME4JC83FAPG054093 Engine no. JC83EG3500331. Model name :- SP 125 DISK seized by the police in connection with the offence registered with Jafrabad Police Station vide I C.R. No. **11193024260093/2026** for the offences punishable under Secs. 115(2), 137(2), 189(2), 191, 309(4), 352, 351(3), 54, 140(3), 117(2), 190, 191(2)(3) of BNS, Section 135 of GP Act and Scheduled Castes and Scheduled Tribes Prohibition Act Section 3(1) (r), 3(1) (s), 3(2)(v), 3(2)(va) be handed over to the applicant **Pankeshbhai @ Dhoni Laxmanbhai Baraiya** on his executing a personal bond of Rs. 82,500/- (one and half amount of muddamal receipt) on the following conditions.*

- 1) *The applicant shall not act in a manner, which may change the identity of the muddamal motorcycle.*
- 2) *The applicant shall produce muddamal article motorcycle before the trial court as and when called for.*
- 3) *The applicant shall not transfer the muddamal motorcycle to any other person by sale, gift or by any other manner.*
- 4) *The applicant shall produced four photographs of 4" x 6" size of the motorcycle taken from four different angles.*
- 5) *The applicant shall not use the motorcycle in any criminal activity.*

Yadi be sent to the concerned police station, on applicant executing required bonds, as per the order.

*Pronounced in open court today on this **30th** of **July, 2026**.*

Place : Rajula
Date :30-07-2026

[Divyang C. Trivedi]
2nd Addl. District and
Sessions Judge,Rajula
U.I.Code No.GJ00583