



**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,  
& SPECIAL JUDGE, BOTAD.**

**Criminal Misc. Application No. 170 of 2026**  
**[Pocso Case No.06/2026]**

**Exh.:05**

**Applicant/Accused:**

**Bhupatbhai Jerambhai Mithapara**  
Aged:45 years, Occupation:Agriculture,  
Residing At. Umarala,  
Ta.:Gadhada, Dist.:Botad.

**VERSUS**

**Opponent:**

**The State of Gujarat – Through P.P., Botad.**

**Appearance:-**

Learned Advocate Mr.M.D.Parmar, for the Applicant/Accused.  
Learned P.P. Mr.K.M.Makwana, for the Opponent – State.

**Subject:- Application for custody of Muddamal Vehicle U/s.497 of The Bharatiya Nagarik Suraksha Sanhita, 2023**

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

1. The above applicant has preferred this application U/s.497 of The Bharatiya Nagarik Suraksha Sanhita, 2023 for seeking custody of the muddamal article/vehicle bearing Registration No.GJ-01-PR-2571 (Splendor Plus Drum - Hero Motocorp Ltd.), Chassis No.MBLHA10AMDHG16128 and Engine No.HA10EJDHG37478. That the said muddamal vehicle seized in connection with the offence registered with the Gadhada Police Station, Dist.:Botad vide FIR being C.R.No.11190004251522/2025.

Further, it is submission of the applicant/accused that he is a registered owner of the muddamal vehicle and since the vehicle has been seized in the offence, it is lying in the police station without any

use and therefore, if it would not use for longer period, then non use of the vehicle would damage the machinery of the vehicle as well as tyre and tube of the vehicle. That the vehicle is useful to the applicant/accused in his daily work and submitted to obey all the conditions as may be imposed by the court while granting the application.

2. On presentation of this application notice was issued to the State. The Ld. P.P. Mr. K.M.Makwana appeared for the state and contested the muddamal application. The Investigating Officer has filed report with objections at Exh.4. Heard Ld. Advocates appearing for the parties. Perused the record.
3. Ld. Advocate for the applicant/accused has submitted to give the interim custody of the muddamal vehicle bearing No.GJ-01-PR-2571 to the applicant/accused, as he is the registered owner of the vehicle and at present the said muddamal vehicle is lying openly in police station which would ultimate get damaged. To substantiate the claim, the applicant/accused has produced the true copies of RC Book of muddamal vehicle and aadhar card at mark-3/3 & 3/3 respectively, which reveals that the said muddamal article/vehicle is registered in the name of the applicant and the same is lying unused with the Police station. The said vehicle is of day to day use and if the vehicle has not been used and lying in the police custody then the tyre-tube, battery will become decayed. It is submitted that the vehicle may not be kept in proper condition in police station and therefore, the possibility of damage of various parts of vehicle cannot be ruled out and therefore, the applicant/accused has to suffer heavy loss. It is also submitted that most of the investigation has been completed and the muddamal vehicle is not required in the present case and not required to be kept in police station. He has further submitted that the applicant will not use this vehicle for any illegal purpose and therefore submitted to

handover the interim custody of the vehicle to the applicant/accused subject to the condition as the court deems, just and proper.

4. On the other hand, Ld. P.P. Mr. K.M.Makwana for the State, has strongly objected this application and submitted that the vehicle in question seized for the purpose of investigation. The said vehicle was being used by the main accused i.e. son of the present applicant/accused in the commission of offence by the present applicant/accused and if the same is to be released for interim custody, it may be possible for using this vehicle in another offence. Therefore, prayed to reject the application.
5. I have given my thoughtful considerations to the rival submissions. On going through the papers, the muddamal recovery is made out as per muddamal pavati No.110/2025, dtd.22/12/2025. It transpires that the muddamal vehicle bearing Registration No.GJ-01-PR-2571 has been recovered by the I.O. Further, it has found that the present applicant/accused has used the said vehicle at the time of alleged offence. Now, further the person who has committed the offence is the owner of the vehicle. The applicant/accused is the registered owner and has used the vehicle for illegal purpose. Further no any person has claimed this vehicle from the court, in such a case on going through the record it transpires that the applicant/accused is the registered owner of the vehicle No.GJ-01-PR-2571. For proving the case, the muddamal is not necessary to be produced before the court. Even if it is necessary then the suitable conditions may be imposed. It is not in dispute that the muddamal lying either in the Court or in the police station is become useless and ultimately, it causes lost to the assets of nation. The Hon'ble Apex Court, in the case of ***Sunderbhai Ambalal Desai And C.M. V/s. State Of Gujarat*** reported in ***AIR 2003 SUPREME COURT 638***, elaborately discussed about the muddamal lying in the police station without taking any care and caution and was

pleased to give directions as to the disposal of the muddamal lying in the police station as it is loss to the Nation. Therefore, taking all these facts into consideration, I am of the opinion that the applicant/accused is a registered owner of the vehicle, hence vehicle should be handed over to the applicant/accused and as he has asked the interim custody of the vehicle and therefore it should be handed over to its registered owner, Hence, I pass the following order in the interest of justice.

**:: ORDER ::**

1. The present application of the applicant/accused is hereby Allowed. The vehicle bearing No.GJ-01-PR-2571 is hereby ordered to handover to the applicant/accused as interim custody till the final disposal of the case subject to following conditions:-
  - (a) Applicant/accused shall furnish the security i.e. personal bond of the amount equal to one and half times of the value of muddamal vehicle before the concerned police station.
  - (b) Applicant/accused is directed to produce the original R.C.Book of the muddamal vehicle at the time of furnishing the bond.
  - (c) Applicant/accused shall not use the vehicle for any illegal purpose or to allow any person to use the vehicle in any illegal activities or offences.
  - (d) Applicant/accused shall not transfer or handover the vehicle to any other person till the final disposal of the case.
  - (e) Applicant/accused shall not make any changes in the body of the vehicle.
  - (f) Applicant/accused shall produce the vehicle as and when asked by complainant or Court.
  - (g) The I.O. has to take photographs of muddamal vehicle consisting of registration No.GJ-01-PR-2571 and also prepare the panchnama handing over the muddamal to the applicant/accused.

Yadi be sent to the concerned Police Station.

Signed & Pronounced in the open Court today i.e. on 16<sup>th</sup> March, 2026.

Date : 16/03/2026

Place: Botad.

**(Jayeshkumar Kanubhai Prajapati)**

Additional Sessions Judge,

Botad.

[Code No.GJ00598]