



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

**Criminal Misc. Application No. 179 of 2026
[Atrocity Case No.36/2025]**

Exh.:05

Applicant:

Rathod Bachubhai Bhagvanbhai
Aged: 55 years, Occupation: Labour,
Residing At. Near Vichhiya Crossing,
Khodiyarnagar-1, Botad,
Ta./Dist.: Botad.

VERSUS

Opponent:

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

Appearance:-

Ld. Advocate for the Applicant : Mr. M.B.Mer
Ld. P.P. for the opponent – State : Mr. K.M.Makwana

**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 for U/s.497 of The Bharatiya Nagarik Suraksha Sanhita, 2023 for seeking custody of the muddamal article/vehicle bearing Registration No.GJ-38-WA-3706 (Bajaj RE CNG 4S – Bajaj Auto Ltd.), Chassis No.MD2B47AXXRWK21837 and Engine No.AZXWRK78756 seized in connection with the offence registered with the Botad Police Station, Dist.: Botad being FIR No.11190002251523/2025 for the offences punishable under Sections-115(2), 117(2), 352, 351(3), 54 of the BNS and Section-135 of G.P. Act and Sections-

3(1)(r), 3(1)(s), 3(2)(va) of the Atrocity Act.

Further, it is submission of the applicant that he is a registered owner of the said muddamal article/vehicle and since it 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 same would damage to its spare parts, machinery as well as tyre and tube of the vehicle. That the muddamal article/vehicle is useful to the applicant 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 opponent - 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 has submitted to give the interim custody of the muddamal article/vehicle bearing No.GJ-38-WA-3706 to the applicant, as the applicant is the registered owner of the same and at present the said muddamal article/vehicle is lying openly in police station which would ultimate get damaged. To substantiate the claim, the applicant has produced the copies of RC Book of muddamal vehicle and aadhar card at mark-3/3 & 3/4. The applicant has also produced no claim pursis of the accused, 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 muddamal article is vehicle of day to day use and if the same has not been used and lying in the police custody then the tyre-tube, battery and other spare parts will become decayed. It is submitted that the muddamal article/vehicle may not be kept in proper condition in police station and therefore, the possibility of

damage of various parts of muddamal article/vehicle cannot be ruled out and therefore, the applicant has to suffer heavy loss. It is also submitted that most of the investigation has been completed and the muddamal article/vehicle is not required in the present case and not required to be kept in police station. He has further submitted that the applicant has not used this muddamal article/vehicle for any illegal purpose and the same has not used by the applicant in the offence and therefore, submitted to handover the interim custody of the same to the applicant 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 objected this application and submitted that the said muddamal article/vehicle was seized from the accused who had used the said muddamal article/vehicle in committing the offence. The said muddamal article/vehicle was being used in the commission of offence 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 the muddamal pavati No.197/2025, dtd.28/10/2025. It transpires that the muddamal article/vehicle bearing Registration No.GJ-38-WA-3706, Chassis No.MD2B47AXXRWK21837 and Engine No.AZXWRK78756 has been recovered by the I.O. Further, it has found that the main accused has used the said muddamal article/vehicle at the time of alleged offence. Now, further the person who has committed the offence is not the owner of the muddamal article/vehicle. The applicant is the registered owner but has not used the muddamal article/vehicle for illegal purpose. Further no any person has claimed this muddamal

article/vehicle from the court, in such a case on going through the record it transpires that the applicant is the registered owner of the muddamal article/vehicle No.GJ-38-WA-3706. For proving the case, the muddamal article 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 article 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 is a registered owner of the muddamal article/vehicle, hence, the same should be handed over to the applicant and as he has asked the interim custody of the muddamal article/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 is hereby Allowed. The muddamal article/vehicle bearing No.GJ-38-WA-3706 is hereby ordered to handover to the applicant as interim custody till the final disposal of the case subject to following conditions:-
 - (a) Applicant shall furnish the security i.e. personal bond of the amount equal to one and half times of the value of muddamal article/vehicle before the concerned police station.
 - (b) Applicant is directed to produce the original R.C.Book of the muddamal article/vehicle at the time of furnishing the bond.

- (c) Applicant 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 shall not transfer or handover the vehicle to any other person till the final disposal of the case.
- (e) Applicant shall not make any changes in the body of the vehicle.
- (f) Applicant shall produce the muddamal article/vehicle as and when asked by complainant or Court.
- (g) The I.O. has to take photographs of muddamal article/vehicle consisting of registration No.GJ-38-WA-3706 and also prepare the panchnama handing over the muddamal to the applicant.

Yadi be sent to the concerned Police Station.

Signed & Pronounced in the open Court today i.e. on 18th March, 2026.

Date : 18/03/2026
Place: Botad.

(Jayeshkumar Kanubhai Prajapati)
Additional Sessions Judge
& Special Judge, Botad.
[Code No.GJ00598]