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Decided on : 07.03.2026  
Duration:Y:00, M:00, D:02.



**IN THE COURT OF 3<sup>RD</sup> ADDITIONAL SESSIONS JUDGE,  
DAHOD**

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**Criminal Revision Application No.55 of 2026**

Exh.05

**Applicant :**

Dashariya Virsinh Bamaniya  
Age: 49 years, Occupation: Agriculture,  
Residing at Kaliyavava, Lohar Faliya,  
Tal. Bhabhra, Dist. Alirajpur (Madhya Pradesh).

**Versus**

**Opponent :** The State of Gujarat.

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**Appearance :-**

Ld. Advocate for the Applicant : Mr. S. H. Meda  
Ld. A.P.P. for the State. : Mr. D. S. Parmar

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

1. The applicant has preferred present Criminal Revision Application under the provisions of S.438 of Bharatiya Nagarik Suraksha Sanhita, 2023.
2. Being aggrieved and dissatisfied with the order dated 28.02.2026 in the muddamal application passed by the Ld.

Judicial Magistrate First Class, Garbada, by which the Ld. Trial Court has rejected the application filed by the applicant U/s.497 of the B.N.S.S. Hence, the applicant has filed the present Criminal Revision Application.

3. In nutshell the facts of the case are that the Criminal Case for the offence punishable U/Ss.65(e), 81, 98(2), 116-B of the Gujarat Prohibition Act has been registered with Garbada Police Station vide Prohi. C.R. No.11821024260267/2026, in which the investigation agency has seized one vehicle TVS XL100 bearing registration No.MP 69 ME 2912 as muddamal.
4. The applicant applied before the Ld. Trial Court to release the said muddamal vehicle as per Sec.497 of the B.N.S.S. Ld. Trial Court has observed that the aforesaid vehicle has been used for the purpose of transporting the muddamal liquor, etc. by the accused person and by virtue of impugned order dated 28.02.2026, Ld. Trial Court has rejected the application and declined to give interim custody of the vehicle, resulted which the present Revision Application has been preferred.
5. Notice has been issued to the Investigating Officer. He has objected the contents of the Revision Application.
6. Following points arise for the determination of this Court in this revision application.
  - I. Whether the revisioner - applicant proves that, the judgment passed by Ld. Judicial Magistrate First Class, Garbada in Muddamal

Application, dtd.28.02.2026 is illegal,  
incorrect and improper ?

**II.** What order ?

7. Findings of this Court on the above points are as under with following reasons.

**I.** In the Negative.

**II.** As per the Final Order.

8. Ld. Counsel appeared on behalf of the applicant has submitted that the order passed by Ld. Trial Court is against the provisions of law, arbitrary and against the principle of natural justice. Therefore, the interference of Superior Court is necessary. He has further submitted that the said vehicle is used by the applicant in his day to day activities and it is not used by the applicant for carrying any prohibited country made English liquor.

9. Ld. Counsel submitted that the muddamal vehicle is not in use, so, its tyres, tubes, spare parts and engine will be damaged and the applicant has to suffer economical loss, hence, requested to set-aside the order of the Ld. Trial Court and give the possession of the muddamal vehicle.

10. During the course of arguments Ld. A.P.P. vehemently objected the contents of this application and submitted that the muddamal vehicle has been used for the purpose of transporting the muddamal liquor etc. and the said offence is grievous in nature. Ld. A.P.P. further submitted that there is no irregularity found in the order passed by Ld. Trial Court. Therefore, no interference of this Court is

required. Lastly submitted to reject this Revision Application.

**-: REASONS :-**

**POINT NO.I:**

11. I have carefully gone through the submission advanced by the Ld. A.P.P. and have also perused the impugned order passed by the Ld. Trial Court in Criminal Misc. Application.
12. Apart from above it is worthwhile to reproduce the *Notification dated 02nd July 2019 issued by the State of Gujarat bearing No. GG/64/2019/VDR /10/2009/ 2061/ E-1, wherein, the quantity prescribed in Rule 9 of Gujarat Prohibition (Liquor Samples and Determination of Quantity Seized Liquor) Rules, 2012 has been prescribed to be read as 20 liters.*
13. Above mentioned Rule 9 prior to this amendment was as follow:  
"Seizure of vehicle with quantity more than 10 liters (now amended as 20 liters) :- Where the quantity of liquor seized is more than 10 liters in respect of any offence punishable under the Act, the vehicle carrying such liquor shall be liable to be confiscated in connection with the provision of Sub-Section 2 of S.98 of the Act."
14. The Hon'ble Gujarat High Court also ruled out in Special Criminal Application (Possession of Muddamal) No.8521 of 2017 in case of Pareshkumar Jaykarbhai Brahmhatt V/ s. State of Gujarat, dated 15th December, 2017 wherein it is held that the clause 2 of S.98 things liable to confiscation under sub-Section (1) is found and the other

contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in carrying any such article shall likewise be liable to confiscation by the order of the Court, but it shall not be released on bond or surety till the final judgment of the Court where the quantity of the seized liquor is exceeding the quantity as may be prescribed by the rules.

15. On perusal of above mentioned rule read with S.98(2) of the Act reveals that there is a bar of the Court so far as rules of such vehicle is concerned which is used in carrying or transporting any article before the confiscation under sub-Section (1) of the Act in case of liquor exceed 20 liters.
16. Looking to the FIR, it clearly seems that in the present case the quantity of alleged seized liquor is more than 20 liters, which is prescribed quantity in notification as mentioned above. In such factual position of the matter and taking into consideration the above explained settled legal principles in this regard, this Court is of the opinion that the Ld. Trial Court has properly considered the provisions of law and passed the said impugned order by considering the settled principles of law. **Therefore, Point No.I decided in the Negative.**

**POINT NO.II:**

17. Therefore, this Court does not find any illegality, perversity, impropriety, irregularity or incorrectness in the order under challenge passed by the Ld. Trial Court.

Hence, following order is passed in the interest of larger justice.

**:: O R D E R ::**

- A) The Present Criminal Revision Application No.55 of 2026, is hereby dismissed.
- B) The order passed by Ld. Judicial Magistrate First Class, Garbada dated 28.02.2026 in Muddamal Application filed by the applicant is hereby confirmed.

Pronounced in the open Court today, i.e. 07<sup>th</sup> Day of March, 2026.

Date:07.03.2026  
Place: Dahod.

**(Sandipsinh G. Dodiya)**  
UIC No:GJ00902  
3<sup>rd</sup> Additional Sessions Judge,  
Dahod.