



IN THE COURT OF JUDICIAL MAGISTRATE FIRST CLASS, AT.DEVGADH
BARIA, DIST. DAHOD.
PRESIDED OVER BY :- MR S O GARG

CRMA - 319 OF 2026

APPLICANT : BABUBHAI BHAYLABHAI PARMAR
AGE. 53, OCCUPATION - FARMING,
RESIDENT - PANIVASAN, VADEL FALIYA,
TA. DEVGADH BARIA, DIST. DAHOD.

vs.

RESPONDENT : THE STATE OF GUJARAT.

Application for seeking interim custody of a muddamal
Mobile phone Under Sec. 497 & 503 of Bhartiya Nagrik Suraksha
Sanhita, 2023.

APPEARANCE :- For the Applicant :- L.d Adv. MR. V S BARIA
For the State :- L.d APP MR. S M DAMOR

ORDER BELOW EXHIBIT.1

1. BRIEF FACT OF APPLICATION :

1.1. The present application has been filed by the applicant seeking interim custody of the muddamal phone REALME, C17 IMEI-NO.864244084609659 (hereinafter referred as muddamal in question) The muddamal in question has been seized by the police in connection with the offence registered with the **Devgadh Baria Police Station FIR bearing C. R. No. 0203 OF 2026, Dated 16/02/2026** for the commission of offence u/s. 65(E), 81, 98(2), 116B of the Gujarat Prohibition Act.

2. ARGUMENTS FOR APPLICANT.

- 2.1.** The Muddamal in question has been seized by the police and its real owner is Applicant and the Original bill of sale phone at the name applicant and praying that the muddamal in question belongs to the applicant and the Muddamal in question is extremely useful for the applicant in their daily activities. If the muddamal in question is not released by the Court, it will serve no purpose by remaining at the police station and may also deteriorate over time.
- 2.2.** The applicant submits that the Muddamal in question is personal property, and the same is no longer required for investigative purposes, as all necessary panchnamas and recovery documentation have already been completed by the Investigating Officer. The applicant is willing to furnish a suitable surety as may be directed by this Hon'ble Court, and further undertakes to produce the Muddamal in question as and when required during the course of trial. The applicant further submits that continued retention of the Muddamal in question in police custody would cause unnecessary hardship, and he would be deprived of the use of his rightful property without any justifiable reason.
- 2.3.** In support of his claim, the applicant has produced a copy of the **purchase bill** of the Muddamal in question, which is exhibited on record as **Mark 3/3**, and has also submitted a copy of his **Aadhaar card**, exhibited as **Mark 3/2**, to establish his identity and ownership. These documents clearly demonstrate that the applicant is the lawful owner of the muddamal in question.

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2.4. No further submissions have been made before this court.

3. **ARGUMENTS FOR PROSECUTION.**

3.1. Heard the Ld. A.P.P., he submitted that looking at the entire material on record it is crystal clear that there is a strong prima facie case. He further submitted that the offence is serious and At the time of trial the muddamal in question is required to produce before this court.

3.2. Furthermore, it is argued that the Muddamal in question was seized from the son of the present applicant during the police raid and holds significant importance in the crime. Therefore, at this stage, while the investigation is ongoing, the release of the Muddamal in question cannot be permitted. Hence, a request has been made to reject the current application for the release of the Muddamal in question.

3.3. No further submissions have been made before this court.

4. **DECISION**

4.1. Having heard the arguments advanced by both the learned advocates and after perusal of the documents on record. Considering the submissions and arguments advanced before court. This court is of the opinion that in the interest of justice and in the present facts and circumstances this application of the applicant has been **Allowed**. Following are the findings and reasons for the same.

5. REASONS AND FINDINGS

- 5.1. The Perused the present application, heard the arguments of both the learned counsels and considered the record on hand.
- 5.2. Having gone through the documentary evidence appended with the present application in which it is produced the copy of Original bill of **REALME, C17 IMEI-NO.864244084609659** and the said bill is issued in the name of the present applicant as well as an Aadhar Card of the applicant and also filed. Therefore, from the above mentioned documents, it clearly transpires that the present applicant is the original purchaser and owner of the Muddamal in question.
- 5.3. In view of the above, the investigation process may go on for a long time, therefore, it is not advisable to keep the said Muddamal in custody as it may get damaged and it is not appropriate for the safety of the Muddamal. Moreover, the Hon'ble Supreme Court in the case of **Sundarbhai Ambalal Desai Vs. State of Gujarat report in AIR 2003 SC 638**, has held that under no circumstances the Muddamal should be kept in the police custody for a long period and the same should be released by imposing appropriate conditions and the Muddamal should be handed over to the owner. In view of the aforesaid facts and circumstances along with the judgement referred above, the following order is passed in the interest of justice.

F I N A L O R D E R

- The present application of the Applicant is hereby Allowed.

- It is hereby ordered to hand over interim custody of REALME, C17 IMEI-NO.864244084609659 Mobile Phone to the present applicant. It is Further ordered that the interim custody of the muddamal on proof of ownership before the investigating officer shall be entrusted to the applicant, subject to the following conditions:
 - A. The interim custody of the muddamal REALME, C17 IMEI-NO.864244084609659, is ordered to be entrusted to the applicant. Till the disposal of the case, on his executing a bond valuing the same as shown in muddamal receipt and furnishing surety of equal amount before the investigating officer.
 - B. The Investigating Officer is hereby directed to take photographs and videography of the said muddamal at the time of release.
 - C. The applicant will not sell, mortgage, gift and transfer to any person, of said muddamal till the disposal of the case; and
 - D. The applicant shall present the said muddamal whenever and wherever the Court directs.
- The Yadi of this order to be sent to the Concern Police Station forthwith.

The order Signed and pronounced in the open Court today.

Date :- 27/05/2026
Place :- Devgadhbaria.

[S.O.Garg]
I/C Judicial Magistrate
First class,
Devgadhbaria
JO Code :- GJ01738.