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		0	0	08	

**IN THE COURT OF 4th ADDITIONAL SESSIONS JUDGE,
VISAVADAR.**

Criminal Misc. Application No. 111/2026

Exh. :

Applicant: **Parmar Dalpatdas Muldas**
Age: 52 years, Occupation: Labour,
Religion : Hindu,
Resident: Nani Bhalsan, Tal. Kalawad,
Dist. Jamnagar,
At Present - Chuda, Tal. Bhesan

Versus

Opponent: **The State of Gujarat**
Notice through,
A.G.P. Shree,
Government Pleader Office,
Court Building, Visavadar.

(Bhesan Police Station Crime Registration No.
11203007260105/2026 under section 137(2), 87, 64 (2)(M) of

B.N.S. and Section 4, 6, 8 & 12 of POCSO Act)

Appearances:-

Ld. Adv. Mr.M.H. Chavda for the Applicant.

Ld. A.G.P. Mr.V.N.Madhak for the Opponent.

**Subject : AN APPLICATION FILED UNDER SECTION 497
OF BHARTIYA NAGRIK SURAKSHA SANHITA.**

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

- 1) The applicant has filed this application under Section 497 of BNSS, for interim custody of the muddamal vehicle being TVS Raider having registration No. GJ-10-EA-3785.
- 2) The brief case of the prosecution is that the applicant, Dalpatdas Muldas Parmar, has filed an application under Section 497 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) seeking interim custody of his TVS Raider motorcycle (Registration No. GJ-10-EA-3785), which was seized by Bhesan Police in connection with CR No. 11203007260105/2026 registered under Sections 137(2), 87 and 64(2)(m) of the BNS and Sections 4, 6, 8 and 12 of the POCSO Act. The applicant states that he is the registered owner of the vehicle, the investigation has been completed, and the matter is pending as Special POCSO Case No. 06/2026. He submits that the motorcycle is lying unused in the police station and is likely to deteriorate, causing damage to its machinery and reducing its value. He further states that the vehicle is essential for his livelihood and that he is not financially capable of purchasing another vehicle. Therefore, he requests that the motorcycle be

released to him on interim custody subject to such terms and conditions as the Court may deem fit, and undertakes to comply with all conditions imposed by the Court.

- 3) The notice was issued to the otherside. Ld.Ad.P.P. representing the State, has appeared before this Court, and filed the opinion of I/c. P.I. Bhesan Police Station, vide Exh.-6 to resist the application.
- 4) At the time of argument, the Ld. Advocate for the applicant has mostly argued as per his application at Exh.1.
- 5) The Ld.Ad.P.P. has strongly resisted the application with the strength of opinion of the I/c. PI, Bhesan Police Station and submitted that a case has been registered at Bhesan Police Station on 21/03/2026 at 20:40 hours under BNS sections 137(2), 87, 64(2)(am) and POCSO sections 4,6,8,12, based on a complaint by Kantaben, whose minor daughter (16 years, 10 months, 19 days) was allegedly enticed and kidnapped by accused Jaydev Dalpatbhai Parmar, who had a physical relationship with her against her will despite knowing she was a minor. The accused's father, Dalpatbhai, filed an application before the Hon'ble Court for release of the seized motorcycle (Reg. No. GJ-10-EA-3785, value ₹50,000), but he provided no ownership proof, and releasing the vehicle may lead to its use in further offenses; hence, the police do not recommend releasing the muddamal.
- 6) I have heard the Ld.Advocate for the applicant at length as well as Ld.Ad.P.P. for the State. I have also gone through the opinion filed by the PI, Visavadar Police Station, vide Exh.-6 and also gone through other papers produced on

record.

- 7) It would be profitable to go through the Judgment of the Hon'ble Apex Court in the case of **Sundarbhai Ambalal Desai Vs. State of Gujarat** reported in A.I.R. 2003 P.638 wherein the Hon'ble Supreme Court has succinctly explained the object and scheme of various provisions of the Code as to disposal of case property and held that:

“The object and scheme of the various provisions of the Code appear to be that where the property which has been subject matter of an offence is seized by the Police, it ought not to be retained in the custody of the Court or of the Police for any time long than what is absolutely necessary.”

It is further held that the powers under Section 451 of the Code of Criminal Procedure (in short “Cr.P.C.”) should be exercised expeditiously and judiciously.

It would serve various purposes namely:

1. Owner of the article would not suffer because of its remaining unused or by its misappropriation;
2. Court or the Police would not be required to keep the article in safe custody;
3. If the proper Panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the Trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. The jurisdiction of the Court to record

evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”

Thus, keeping in mind the ratio laid down by the Hon'ble Apex Court and considering the facts and circumstances of the case on hand, keeping the said muddamal in the custody will not be useful to the Police.

- 8) It reveals that applicant is the owner of the vehicle bearing registration No.GJ-10-EA-3785 having Engine No. AF9PP1329482 and Chassis no. MD625AF90P1P29893 as his name is clearly reflected in the R.C. Book of the vehicle produced vide Mark-3/2 and identity of the applicant is established from Aadhar Card of the applicant vide Mark-3/3.
- 9) Further the accused - Jaydev Dalpatbhai Parmar has produced no claim pursis vide Exh.7 declaring his no objection if the the custody of the vehicle given to the applicant. Thus, keeping in mind the ratio laid down by the Hon'ble Apex Court as discussed above and considering the facts and circumstances of the case on hand, keeping the said muddamal motorcycle in the custody will not be useful the Police. Under the circumstances, considering the above facts and circumstances, considering the documents produced on record, there is substance in the say of the applicant and he is the actual and real owner of the muddamal vehicle. Therefore, in view of the above aspects, the present application deserves to be allowed. Hence, I pass the following order:

:- ORDER :-

- (1) The present application is hereby **allowed**.

(2) It is hereby ordered that the Muddamal article—TVS Motor Company Motorcycle bearing registration No.GJ-10-EA-3785 having Engine No. AF9PP1329482 and Chassis no. MD625AF90P1P29893, seized in pursuance to offence registered vide CR No. 11203007260105/2026 registered under Sections 137(2), 87 and 64(2)(m) of the BNS and Sections 4, 6, 8 and 12 of the POCSO Act before Bhesan Police Station, be handed over to the applicant-Parmar Dalpatdas Muldas on furnishing surety of one and half time the value of the said muddamal vehicle and personal bond of like amount to the satisfaction of concerned Police Station, as interim custody till the final disposal of the case, subject to the following conditions:

1. The applicant shall not transfer, sell or change the form of said muddamal vehicle till the final disposal of the case;
2. The applicant shall produce the said Muddamal vehicle as and when called by the Police or Court at his own cost;
3. Investigating officer is directed to make the detailed Panchnama of the said Muddamal vehicle and take photographs revealing the identity of the Muddamal vehicle, at the cost of the applicant and shall produce the same as when called for;
4. Bonds shall be executed before the concerned Police Station;
5. In case of breach of any condition, applicant shall have to deposit the amount of bond before this Court.

(3) Yadi of this order be made accordingly.

Signed and pronounced in the open Court, today on this
12th day of June, 2026.

Date : 12/06/2026.
Place: Visavadar.

(Hetalkumar Vinodray Joshi)
4th Additional District &
Sessions Judge,
Visavadar.
[Code No:GJ00599]