

GJMR010004922026



Received on : 28/02/2026
Registered on : 28/02/2026
Decided on : 06/03/2026
Exh. :

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
MORBI.**

Cri.Misc.Appln.No.245/2026

Applicant :-

Goverdhanbhai Praveenbhai Chavda
Age: 20years, Occupation: Labour Work
Residing at :Kotadiya, Jamnagar, Gujarat

Vs.

Opponent :-

THE STATE OF GUJARAT

BEFORE SHRI K. R. PANDYA
ADDITIONAL SESSIONS JUDGE, MORBI

Advocates:-

Mr. H. R. Nayak, Ld. Advocate for Applicant/Accused.

Mr. N. D. Karia, Ld. A.P.P. for Opponent/State.

-:: JUDGMENT ::-

[1] The present application has been filed under Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking interim custody of the muddamal vehicle, i.e., Hero Splendor Plus motorcycle bearing Registration No. GJ-37-P-2873. The said vehicle was seized by the police in connection with the offence registered with Tankara Police Station vide I-C.R. No. 0490 of 2025 for the offences punishable under Sections 137(2), 87, 64(2)(i)(m) and 54 of the Bharatiya Nyaya Sanhita, as well as under Sections 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012.

[2] It is the case of the applicant that the present application has been filed on behalf of his late father, who was the true and lawful owner of the said motorcycle, which was recovered during the course of investigation. The applicant has produced documentary evidence vide Mark 3/4 to 3/8, which shows that the said motorcycle stands in the name of his late father. It is submitted that the said motorcycle was being used by the applicant and that it is required by him for the purpose of daily transportation in connection with his work. Due to the seizure of the said muddamal motorcycle by the police, the applicant is facing hardship. It is further submitted that the motorcycle is presently lying in the custody of the police and, in the absence of proper care and regular use, its parts are likely to deteriorate and become unusable.

[3] It is further submitted that the applicant has filed this application seeking interim custody of his Motorcycle and the applicant is ready and willing to abide by all or any conditions that may be imposed by this Court. Hence, the present application may kindly be allowed. It is further submitted that no other person has put forth a claim of ownership or custody of the said Motorcycle, hence, this application may be allowed.

[4] Per contra, Ld. APP has submitted that the Motorcycle of the applicant was used in the commission of offence and if the interim custody of the Motorcycle is given to the applicant, there is a likelihood of it being used for other offences, therefore, present application may be rejected. Ld. APP has also filed report of investigating officer wherein similar contentions have been made and it is opined that the Motorcycle should not be handed over to the applicant.

[5] In view of the submissions and on perusal of record, it is evident that the present Motorcycle has been seized during the course of investigation. Further, in support of ownership, the applicant has produced the R.C. Book of the motorcycle, which stands in the name of the applicant's late father. Further, on perusal of report submitted by I.O. it is not the case of prosecution that custody of the Motorcycle is required any more for the purpose of investigation. Further, the police have already filed the charge-sheet in the alleged offence, which has been registered as POCSO Case No. 40 of 2025 and is presently

pending for adjudication.

[6] The applicant is seeking interim custody of his Motorcycle and therefore it would be relevant to note that the basic purpose of granting the interim custody of the Motorcycle is to see that it may not unnecessarily remain before the Police Station in unused condition. In the case reported in **2003(2) G.L.R. 1337, 2002(10) SCC 290: Sundarlal Ambalal Desai vs. State of Gujarat**, guidelines have been issued in this regard and the Hon'ble Supreme Court has directed to dispose of muddamal as early as possible on appropriate conditions.

[7] The ownership of the applicant in respect of the muddamal in question is not disputed. It is also evident that no other person has come forward with any claim over the said motorcycle. Therefore, it would not be reasonable to keep the said motorcycle without proper care and maintenance for a longer period until the conclusion of the trial. Further, the handing over of custody under Section 497 of the B.N.S.S. would not be of an absolute nature but only an interim arrangement for the custody of the muddamal motorcycle, while the Court shall continue to have control over the same.

[8] Therefore, in view of the above, the present application deserves consideration. Hence, the following order is passed.

:: ORDER ::

- i) This application is conditionally allowed.
- ii) The interim custody of muddamal Hero Splendor Plus motorcycle bearing Registration No. GJ-37-P-2873., which was seized by the police in connection with the offence registered with Tankara Taluka Police Station vide I-Crime Registration No. 0490/2025, for the offences punishable under Sections 137(2), 87, 64(2)(i)(m) and 54 of the Bharatiya Nyaya Sanhita, as well as under Sections 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012, is directed to be handed over to the applicant on furnishing personal bond amount equal to **1.5 times** the value (as mentioned in the muddamal pavti/panchnama) of the muddamal with one surety of the like amount before the concerned police station, subject to following conditions:

CONDITIONS:

- a) *The said muddamal Motorcycle shall not be used to facilitate the commission of any crime in future and that the said vehicle shall be produced before the Court as and when called upon.*
- b) *The applicant shall not sell, transfer or alienate the Motorcycle in any manner, pending the trial proceedings & without the prior permission of the concerned court.*

c) The investigation officer shall prepare a detailed panchnama of the parts and also take photographs of muddamal, from all the sides, and shall produce it before the concerned Court.

d) Copy of this order be sent to the concerned Police Station for compliance of this order.

Signed and Pronounced today in open Court on this 6th day of March, 2026.

Place :- Morbi
Date :- 06/03/2026

Hariom

(Kamal Rasiklal Pandya)
Addl. Sessions Judge,
Morbi
Judge Code GJ00739