

**BEFORE THE PRINCIPAL DISTRICT & SESSIONS  
JUDGE at PORBANDAR**

**CRIMINAL MISCELLANEOUS APPLICATION NO.  
88/2026**

**Ex.No.6**

**APPLICANT:-**

**KUCHHADIYA MAHESH NATHABHAI,**

Male, Age: 31, Occu. Farming,

Address:

Opposite Water Tank,

Desert Area,

Chhaya,

Porbandar.

**V E R S U S**

**OPPONENT:-**

**THE STATE OF GUJARAT,**

D.G.P. Office,

Porbandar.

**Appearance:**

**J. R. ODEDRA,** Learned Advocate for Applicant.

**S. B. JETHWA,** Learned D.G.P. for Opponent.

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**Application under Section 497 & 498 of the  
Bhartiya Nagrik Suraksha Sanhita, 2023.**

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

1. Present petition is filed under Section 497 & 498 of BNSS seeking interim custody of muddamal vehicle Four-Wheel ISUZU MOTORS D.MAX CREW(4JA1), UTILITY TITANIUM SILVER META having registration No.GJ-25-U-5543 which was seized by Investigating Officer during the course of investigation in connection with the offence registered before the Ranavav Police Station vide C. R. No.11218015250661 of 2025 for the offenses

punishable under Secs.109(1), 117(2), 115(2), 351(3), 352, 54 of B.N.S. and Sec.135 of G.P.Act.

2. Learned advocate for the applicant submits that the vehicle is seized on account of it being allegedly used by the accused and that the applicant is not the accused in the matter. It is also argued that the vehicle is lying with the custody of Ranavav Police Station without any proper care and maintenance, therefore, if the present application is not allowed then the vehicle is likely to be rendered useless. It is also argued that applicant is ready and willing to abide by all the conditions that may be imposed by the Court.
3. Learned D.G.P. for the State has submitted that the accused has used the vehicle in arriving at the place of incident and he has strongly opposed the grant of relief prayed for in this application citing that the vehicle was used for the commission of serious offence. The report of investigation officer objecting release of muddamal vehicle is produced at Exhibit-4.
4. In view of the submissions and on perusal of papers annexed with this application, it appears that the ownership of the applicant over the vehicle seized by the investigating agency is not in dispute and the said vehicle was seized in terms of arrest panchnama of accused. Upon perusal of the police papers in respect of the offence registered with Ranavav Police Station, it emerges that the accused allegedly used the said vehicle for arriving at the place of incident.

5. The vehicle was seized from the custody of accused Vijay Munjha Kuchhadiya, who has filed an affidavit vide Exh.5 declaring that he has no objection if the custody of muddamal vehicle is handed over to the present applicant. As per the registration certificate of vehicle annexed to this petition, the applicant appears to be the registered owner of the said vehicle.
6. The applicant is seeking interim custody of his vehicle and therefore, it would be relevant to note that the basic purpose of granting interim custody of vehicle is to see that it may not unnecessarily remain before the Police Station in unused condition. The vehicle is lying with police station since the date of its seizure. Therefore, it would not be reasonable to keep the vehicle without proper care and maintenance for long period. Further the handing over of custody under Section-497 of BNSS, which corresponds to section 451 of Cr.P.C., would not be of absolute nature but an interim arrangement of the custody of vehicle, while the Court may continue to have control over it.
7. Honorable Supreme Court has, in the case of ***Sundarlal Ambalal Desai Vs. State of Gujarat***, reported in 2003(1) GLH 307, framed exhaustive guidelines in respect of handing over interim custody of muddamal articles of different nature. Hon'ble Gujarat High Court has, relying on the said judgment of the Hon'ble Supreme Court as well as *catena* of other judgments on the issue, discussed in

great detail the nature and scope of power of the court to grant interim custody, in the case of ***Abhay Shrenikbhai Gandhi Vs. State of Gujarat*** (2015(0)AIJEL-HC-234642); the guidelines in respect of release of vehicles seized for their involvement in crime are as reproduced herein below:

***Vehicles***

*[1] Vehicles involved in an offence may be released to the rightful owner after preparing detailed panchnama; taking photographs of the vehicle; valuation report; and a security bond.*

*[2] The photographs of the vehicle should be attested and countersigned by the complainant, accused as well as by the person to whom the custody is handed over.*

*[3] The production of the vehicle should not be insisted upon during the trial. The panchnama and photographs along with the valuation report should suffice for the purposes of evidence.*

*[4] Return of vehicles and permission for sale thereof should be the general norm rather than the exception.*

*[5] If the vehicle is insured, the Court shall issue notice to the owner and the insurance company for disposal of the vehicle. If there is no response or the owner declines to take the vehicle or informs that it has claimed insurance/released its right in the vehicle to the insurance company and the insurance company fails to take possession of the vehicle, the vehicle may be ordered to be sold in auction.*

*[6] If a vehicle is not claimed by the accused, owner, or the Insurance company or by a third person, it may be ordered to be sold by auction.*

8. Therefore, in view of the above, this Court is of the considered opinion that present application deserves consideration. Hence, the following order is passed.

**-// O R D E R \-**

- i) This application is conditionally **allowed**.
- ii) The interim custody of muddamal vehicle Four-Wheel ISUZU MOTORS D.MAX CREW(4JA1), UTILITY TITANIUM SILVER META having registration No.GJ-25-U-5543 bearing Chassis No.M3GTFR544KB301009 and Engine

No.A1Z869, which was seized by Investigating Officer during the course of investigation in connection with the offence registered with Ranavav Police Station vide C. R. No.11218015250661 of 2025 for the offenses punishable under Secs.109(1), 117(2), 115(2), 351(3), 352, 54 of B.N.S. and Sec.135 of G.P.Act, is directed to be handed over to the present applicant upon furnishing personal bond amounting to **twice** the value (as mentioned in the panchnama) of the vehicle before the concerned police station, subject to following conditions:

- a) The applicant shall not sell, transfer or alienate the vehicle in any manner, pending the trial proceedings, and shall produce the vehicle before the authorized officer or Court, as and when called upon to produce the same.
- b) The investigation officer shall scrupulously adhere to the guidelines issued by the Hon'ble High Court and Supreme Court referred to in this order and shall also take photo/video of the vehicle in terms of section 497(3) of BNSS and prepare a detailed panchnama of the vehicle.

*Copy of this order be sent to the concerned Court and Police Station, for information and necessary action.*

Signed and pronounced in the open Court today  
on this **13<sup>th</sup> DAY OF MARCH, 2026 at PORBANDAR.**

Date:- 13.03.2026  
Place:- Porbandar

( **M. A. BHATTI** )  
Principal District & Sessions Judge,  
**P O R B A N D A R**  
Code No. **GJ01506**