

Petition Filed on	20/06/2026
Petition Registered on	20/06/2026
Petition Decided on	06/07/2026
Duration	Y / M /Days 0 / 0 / 16

**IN THE COURT OF HON'BLE SESSIONS JUDGE, PATAN -
AT PATAN**

**CRIMINAL REVISION APPLICATION No.44/2026
Ex.6**

APPLICANT:

Govind Ratan Gadhvi
Age: 27 Years, Occupation: Transport
Residing At: Bhuva Faliyu, Panchatiya, Kutch.

V/s.

OPPONENT:

The State of Gujarat

Sub: Revision Application U/s. 438 of the B.N.S.S.

APPEARANCE:

Mr.R.B.Joshi - Ld. Advocate for Applicant.
Mr.J.J.Barot - Ld. A.P.P. for the State.

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

- Order passed by the learned Judicial Magistrate First Class, Harij (for short 'Trial Court') on 16/06/2026 in C.R. No.11217009260381/2026 punishable U/s. 65(A)(E), 116(B), 98(2), 81, 83 of the Prohibition Act & U/s. 3, 181, 130(1), 177, 196 of M.V. Act has been assailed before me by way of this Criminal Revision Application.
- Brief facts of present Revision Application are as under :**
(2.1) Tata Motors Dumper having registration No.GJ-24-

X-1521 (for short 'Dumper') owned by the applicant was seized by the police in connection with the alleged offence and hence the applicant filed an application before the trial court seeking possession of his dumper, which came to be rejected and it is this order of the trial court that has been challenged before this court.

3. It is submitted by learned advocate for applicant that order of the trial court is against the law and to be set aside. There is misapplication of section 98(2) and the trial court failed to appreciate the ratio laid down by the Hon'ble Apex Court in the landmark case of *Sunderbhai Ambalal Desai V/s. State of Gujarat* (2002) 10 SCC 283. The vehicle is the sole source of livelihood for the applicant. So applicant has prayed to set aside the order of the trial court and vehicle should be returned back to him.
4. Investigating Officer produced his opinion vide Ex.5 and submitted not to hand over the custody of vehicle to the applicant and hence learned A.P.P. has objected the present application and submitted to reject the same considering facts and circumstances of the case.
5. On perusal of the application, other papers, and on hearing both the sides, following issues have emerged for deciding the present Revision application.
 - (1) Whether the impugned order passed by the learned trial court is illegal, perverse and against the settled principle of law ?
 - (2) Whether the order passed by the learned trial court is liable to be interfered with ?
 - (3) What order ?
6. Answers to above issues are as follows:

1. In negative
 2. In negative
 3. As per final order
7. I have heard the learned advocates for the respective parties.

// FINDINGS //

// Issue Nos.1 & 2 //

8. Considering the facts of the present case, it transpires that the vehicle of the applicant was seized as muddamal by the police in connection with the offence of prohibition. Therefore, the applicant filed application before trial court to release his muddamal vehicle, but the said application was rejected and therefore the applicant is before this court seeking custody of his vehicle.
9. The applicant has produced on record the copy of R.C. Book of the vehicle which is registered in the name of the present applicant. I have considered the overall facts of the case. While handing over the custody of muddamal, it is necessary to take into consideration the provisions and principles of The Gujarat Prohibition Act and according to section 98(2) of the Act, the vehicle is liable to be expropriated by the government. In the present case, the said vehicle was confiscated by the police with huge quantity of foreign liquor from the vehicle of the applicant with 19392 bottles worth Rs.56,22,537/- as transpires through the opinion of the I.O. as well as FIR on record as well as muddamal pavati. Thus the quantity of seized muddamal liquor seems more than 20 litres. In such circumstances, considering rule No.9 of Gujarat Prohibition Rules - 2012, the said muddamal can not be released by the trial court when

the quantity of liquor seized is more than 20 litres. Moreover, considering the principles laid down in Sp. Criminal Application (Possession) No.8521/2017 of Hon'ble Gujarat High Court passed on 15/12/2017, the trial court can not release such muddamal, if the quantity of liquor recovered exceeds 10 litres in quantity.

10. In view of above, the trial court's order does not appear to be erroneous or against the principles of law and, therefore, the issue No.1 is answered in negative. When the issue No.1 is answered in negative, there is no need to change or alter the order passed by the trial court and therefore issue No.2 is also answered in negative, whereas for issue No.3, the following order is passed.

-: ORDER :-

1. The present Criminal Revision Application stands **Rejected**.
2. Order passed by the learned Judicial Magistrate First Class, Harij on 16/06/2026 in C.R. No.11217009260381/2026 stands confirmed.
3. A yadi of this order be sent to the concerned court and police station for compliance.
4. No order as to cost.
5. R&P, if any, be sent back to the concerned trial court along with the copy of this order.

Pronounced & signed in the open court today.

Date : 06/07/2026

Place: Patan

(Prashantkumar H. Sheth)

Sessions Judge, Patan

U.I.Code No.GJ00524