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Decided on : 19/06/2026
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IN THE COURT OF 3rd ADDITIONAL SESSIONS JUDGE, AT RAJKOT.

CRIMINAL REVISION APPLICATION NO. 144 of 2026

APPLICANT : **Ajaybhai Dhirajlal Ganatra,**
Age-30, Occupation: Business,
Residing at:,
Shiv Park, B/h Nanavati Chowk,
150 Ft. Ring Road, Rajkot.

V E R S U S

OPPONENT : **THE STATE OF GUJARAT.**

Appearance:

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Ms. Rekhaben M. Tuwar, Learned Advocate for the applicant.

Mr. S. K. Vora Learned P.P. for the State.

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

- 1.** The petitioner has preferred the present Revision Petition under **Section 438 of the Bhartiya Nagrik Suraksha Sanhita, 2023** questioning the legality and validity of the order passed by the Learned Trial Court on the application of the petitioner to release his Muddamal-Vehicle i.e. Auto Rickshaw bearing Registration No.GJ-03-EL-9137 on the ground that the said vehicle has been seized by the Investigating Officer of the crime registered with D. C. B. Police Station vide C.R. No.11208055260200/2026 for offense punishable

under Sections 65(E), 116(B) and 98(2) of Gujarat Prohibition Act.

- 2.** The learned Advocate for the petitioner has submitted that the present petitioner is the owner of the vehicle bearing Registration No.GJ-03-EL-9137. The said vehicle is alleged to have been seized by the police in respect of offence registered before the D. C. B. Police Station vide C.R.No.11208055260200/2026 for offence punishable under Sections 65(E), 116(B) and 98(2) of Prohibition Act. The Ld. Advocate has submitted that learned trial Court has rejected the application for the release of the said vehicle on the ground that the court had no power to release muddamal vehicle under Section 98(2) of Gujarat Prohibition Act and Rule-9 of the Gujarat Prohibition (liquour Samples and Determination of quantity seized liquor) Rules and that the liquor was recovered from the vehicle of the petitioner.
- 3.** The Ld. Advocate for the petitioner has submitted that the conclusion of trial before the learned trial Court is likely to take long and if the said vehicle is made to remain unnecessarily at the police station without proper care and maintenance then the said vehicle would get dilapidated and ruined and would be rendered useless, therefore, the applicant will suffer a great loss and would not be able to use the vehicle. It is further argued that merely because a vehicle is alleged to have been involved in offence under the Provision of Prohibition Act, it cannot be said that the interim custody of the said vehicle should be denied. It is further submitted that the applicant is ready to abide by all or any conditions that may be imposed by the Court while granting the interim custody of the vehicle. It is noteworthy that the ownership of the present applicant over the vehicle in question has not been disputed by the prosecution and the applicant has produced necessary papers in respect of claim of ownership over the vehicle seized by the police.

- 4.** This revision application is strongly opposed by the Learned P.P. for the opponent-State. He has further submitted that, the Learned Trial Court has not committed any error in passing the impugned order as the impugned order is passed after giving thoughtful consideration to Section 98(2) of The Gujarat Prohibition Act and Rule-9 of The Gujarat Prohibition Act (Liquor Samples and Determination of Quantity Seized Liquor) Rules, 2012. Hence, prayed to reject this revision application.
- 5.** Having heard the Learned Advocates for the respective parties and also gone through the papers produced by the applicant. Following issues have been emerged for determination of this Court.
1. Whether the impugned order passed by Learned Chief Judicial Magistrate, Rajkot, dtd.13.05.2026 below application filed for obtaining muddamal-vehicle seized in connection with the offence registered D. C. B. Police Station vide C.R.No.11208055260200/2026 for offence punishable under Sections 65(E), 116(B) and 98(2) of Prohibition Act is perverse, erroneous and against the settled principle of law and is required to be interfered with ?
 2. What order ?
- 6.** My findings on the above points are as under with reasons.
- (1) In the Negative.
 - (2) As per final order.

REASONS

ISSUE NO.1

- 7.** I have carefully gone through the papers produced by the Learned Advocate for the applicant as well as gone through the order passed by the Learned Trial Court in connection with the offence registered D. C. B. Police Station vide C.R.No.11208055260200/2026 for offense punishable under Sections

65(E), 116(B) and 98(2) of Gujarat Prohibition Act.

- 8.** On perusing papers and considering the submission of both the parties, it appears that complainant and others police personnel were on their duty and doing petrolling at that time, they received information that a vehicle having registration No.GJ-03-EL-9137 loaded with English liquor is likely to pass on a particular place then after calling panchas, police personal remained in watch and when alleged vehicle was coming, it was intervened and cordoned and on search of said vehicle more than twenty liters (60 bottles of english liquour worth of Rs.44,064/-) of english Liquor were found and same has been seized by the patrolling party on spot by drawing panchnama. It is important to note that according to FIR, country made liquor is more than twenty liters were found from the alleged vehicle and as such, Section 98(2) of The Gujarat Prohibition Act, 1949, provides that *"any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (1) is found and the other contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in carrying any such article shall likewise be liable to confiscation by the order of the Court [but it shall not be released on bond or surety till the final judgment of the Court where the quantity of the seized liquor is exceeding the quantity as may be prescribed by the rules]."*
- 9.** Further, the Rule-9 of The Gujarat Prohibition (Liquor Samples and Determination of Quantity Seized Liquor) Rules 2012, provides that *"where the quantity of liquor seized is **more than twenty liters** in respect of any offence punishable under the Act, the vehicle or conveyance carrying such liquor shall be liable to confiscated in accordance with the provisions of sub-section (2) of Section 98 of the Act"*.
- 10.** It is also material to mention here that as per judgment of the Hon'ble High Court pronounced in **Special Criminal Application (Possession of Muddamal) No.8521/2017 with other applications**, it has been held that

when the quantity of liquor exceed twenty liters then the Court have no jurisdiction to order interim release during pendency of trial of seized vehicle.

11. Keeping in mind the aforesaid provisions of the Act and perusing documents produced by the applicant, it is an admitted fact that the muddamal liquor found from vehicle No.GJ-03-EL-9137 were in excessive quantities i.e. more than twenty liters in quantity. Further as per provisions of The Prohibition Act, when the vehicle has been used for transportation of liquor more than twenty liters then it cannot be released and as such, liquor found and seized from vehicle No.GJ-03-EL-9137 exceed twenty liters in quantity and vehicle was used for transportation of liquor and when the quantity of liquor exceed twenty liters then the Court have no jurisdiction to order interim release during pendency of trial of seized vehicle.

12. On further perusing impugned order, it seems that Learned Judge of the Trial Court has rightly considered the provisions of Law properly and committed no error while passing the order on the petition for release of muddamal-vehicle of the petitioner that no custody of muddamal vehicle can be released under Section 98(2) of Prohibition Act till final decision of the Court. It is further important to note that The Prohibition Act is a Special Act, thus, the order passed by the Ld. Trial Court is legal and correct and in accordance with the provisions of Law, and therefore, it does not require any interference of this Court. Hence, considering the facts and circumstances and findings given by the Learned Trial Court, I am of the view that impugned order passed by Learned Chief Judicial Magistrate, Rajkot, dtd.13.05.2026 below application filed for obtaining muddamal-vehicle seized in connection with the offense registered at D.C.B. Police Station vide C. R. No. 11208055260200/2026 for offense punishable under Sections 65(E), 116(B) and 98(2) of Prohibition Act is not perverse, erroneous and against the settled principle of law and it does not require interference of this

Court. Hence, in the larger interest of justice, I pass the following final order in the interest of justice.

:: ORDER ::

- The present **Criminal Revision Petition No.144 of 2026** is hereby rejected.
- Copy of this order be sent to the concerned Trial Court accordingly.

Signed and pronounced today in the open Court.

Date :- 19/06/2026

Place:- Rajkot.

//V.V.Pandey//

[Ikramkhan Basirkhan Pathan]

3rd Addl. Sessions Judge,
Code No. GJ 00 614, Rajkot.