

FILED ON	:	03/03/2026		
REGISTERED ON	:	03/03/2026		
DECIDED ON	:	13/03/2026		
DURATION	:	Y	M	D
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Exhibit	:			

**IN THE COURT OF 5TH ADDITIONAL SESSIONS JUDGE,
SURAT AT BARDOLI**

Criminal Revision Application No.13/2026

Applicant:

Patel Kalpeshbhai Vijaybhai

Age about : 37 years, occupation : business,

Residing at : Kadeya, Patel Faliyu, Daman, Diu.

VERSUS

Respondent:

The State of Gujarat

Appearance:

Ms. N.B. Choksi : Learned Advocate for applicant.

Mr. N.H. Patel : Learned APP for the State.

J U D G M E N T

1. Present revision application has been filed against the order dated 26-02-2026 passed by learned Additional Chief Judicial Magistrate, Mandvi District Surat in Muddamal Application arising out of C.R. No.11214032260141/2026 under Section 65(e), 81, 83, 98(2), 116(b) of the Prohibition Act registered with Mandvi Police Station, by which the learned Trial Court rejected the application under Section 497 of the Bhartiya Nagarik Suraksha

Sanhita (BNSS) filed on behalf of applicant. Feeling aggrieved by the said order present revision application has been filed.

2. By way of impugned order the learned Trial Court has rejected the muddamal application filed by the applicant-accused under Section 497 of the Bhartiya Nagarik Suraksha Sanhita (BNSS), hence, he has filed the present Criminal Revision Application.
3. In nutshell, the case of prosecution is that a case under Section 65(e), 81, 83, 98(2), 116(b) of the Prohibition Act registered with Mandvi Police Station as C.R. No.11214032260141/2026 in which the Investigating Agency has seized one Dumper Truck bearing registration No. DD 03 U 9290 which is owned by applicant. The applicant applied before the Learned Trial Court to get the same muddamal released as per Section 497 of the Bhartiya Nagarik Suraksha Sanhita (BNSS), pending the trial. The aforesaid vehicle has been alleged to be used for the purpose of transporting **5124** bottles (total 1026 ltr.) of Indian made foreign liquor by the accused person(s). By virtue of the impugned order dated 26-02-2026, the learned trial Court has rejected the application and refused to grant interim custody of the muddamal vehicle for which the present application has been filed.

4. Learned Advocate for the applicant-accused has argued in consonance with the averments made in the present application.
5. On the other hand, Learned APP has vehemently objected the present application being not maintainable as it has been contended that the prohibited liquor was recovered from the above stated vehicle. Moreover, he has submitted that in view of latest pronouncement of the Hon'ble Gujarat High Court passed in *Special Criminal Application (Possession of Muddamal) No.8521/2017* in case of *Pareshkumar Jaykarbhai Brahmbhatt Vs. State of Gujarat* on 15.12.2017 such application deserves dismissal. Relying upon the above mentioned judgment, learned APP has submitted that in view of the observations of Hon'ble Gujarat High Court which is squarely applicable to the facts and circumstances of the present case, and the order passed by the learned Trial Court cannot be interfered with and as such the present application deserves to be dismissed.
6. I have heard Learned Advocate for the applicant as well as Learned APP at length and has perused impugned order and documents placed on record and from the same following points of determination arise for consideration and decision of the present revision application:
 1. Whether the impugned order passed by the Ld. Additional Judicial Magistrate First Class, Mandvi,

District Surat dated 26-02-2026 in Muddamal application, is illegal, perverse, contrary to the law or without jurisdiction so as to require interference by this Court ?

2. What order ?
7. My findings on the above issues are as under :-
 1. In the negative.
 2. As per final order.

REASONS

ISSUE No. 1

8. At the very outset it is worthwhile to reproduce Notification dated 02-07-2019 issued by State of Gujarat bearing no. GG/65/2019/VDR/10/2009/2061/E-1 wherein the quantity prescribed in Rule No.9 of GUJARAT PROHIBITION (LIQUOR SAMPLES AND DETERMINATION OF QUANTITY SEIZED LIQUOR) RULES, 2012, has been prescribed to be read as 20 liters in place of 10 liters. The above mentioned rule 9 prior to this amendment was as follows:-

“SEIZURE OF VEHICLE WHEN QUANTITY MORE THAN TEN LITERS:- Where the quantity of liquor seized is more than ten liters in respect of any offence punishable under the Act, the vehicle or conveyance carrying such liquor shall be liable to be confiscated in accordance with the provision of Sub-Section (2) of section 98 of the Act.”

9. A perusal of above mentioned rule read with section 98(2) of the act reveals that though there is a bar on the Court so far release of any such vehicle is concerned which has

been used in carrying or transporting any article to be confiscated under sub section (1) of the Act in case the quantity of the liquor exceeds 10 liters (now 20 liters after the amendment vide notification no. GG/65/2019/VDR/10/2009/2061/E-1 dated 02-07-2019). However, in the present case the quantity of the alleged liquor seized is 5124 bottles (total 1026 ltr.) of Indian made foreign liquor is much more than the prescribed quantity of 20 liters. Hence, in these circumstances the judgment relied upon by the learned APP is squarely applicable to the facts of the present case.

10. Hon'ble High Court of Gujarat has very specifically made it clear that in view of the provision of Section 98(2) of the Prohibition Act, general provisions laid down in *Sundarbhai Ambalal Desai Vs. State of Gujarat [JT (2002) 10 SC 80]* cannot be pressed into service for release of vehicle. In the case of *Special Criminal Application No.7642 of 2018*, between *Hardikbhai Mukeshbhai Chauhan Vs. State of Gujarat*, the Hon'ble High Court of Gujarat has observed that only the High Court can exercise writ jurisdiction under Article 226 of the Constitution of India and order to release the vehicle. In view of the provisions of Section 98 of the Prohibition Act, which prohibits for handing over the custody of the vehicle used in the offence pending the trial and rather stresses on confiscation of the same the present application is devoid of any merits. Further, the applicant has not produced R.C. book of the truck showing that he is the owner of the said

truck. Therefore, in light of the above mentioned judgments, no room is left for interfering in the order passed by the learned Trial Court, as such Issue No. 1 is decided in negative and for Issue No. 2 following order ensues :

:: O R D E R ::

- (1) The present Criminal Revision Application No.13 of 2026 stands Dismissed.
- (2) The order dated 26-02-2026 in Muddamal Application passed by learned Additional Judicial Magistrate First Class, Mandvi, District Surat, is hereby confirmed.
- (3) No order as to cost.

Signed and pronounced in the open Court today on 13th day of March, 2026.

Date : 13/03/2026
Place: Bardoli.

Nareshkumar R. Jain
5th Additional Sessions Judge, Surat at
Bardoli
(Unique ID Code: GJ00582)