

GJVD200001862026



Received on : 26.02.2026
Registered on : 26.02.2026
Decided on : 06.03.2026
Duration : 00 00 8
Years Months Days

IN THE COURT OF 9TH ADDL. SESSIONS JUDGE
SAVLI AT VADODARA.

CRIMINAL REVISION APPLICATION NO. 12 OF 2026

Exhibit :

APPLICANT:

RATHVA SHAILESHBHAI KISHANBHAI

R/o. Tekar Faliyu, Palasda,
Ta. Kanvat, Dist. Chhotaudepur.

Vs.

OPPONENT:

THE STATE OF GUJARAT

Appearance:

Mr.R.A.Parmar, Learned advocate for the applicant

Mr.C.G.Patel, Learned APP for the opponent – the State

Revision Application U/Sec.438 of
the Bhartiya Nagrik Surksha Sanhita

: J U D G M E N T :

1] By way of this revision application under Section 438 of the Bhartiya Nagrik Surksha Sanhita (for short "BNSS"), the applicant has challenged the order dated 06.02.2026 (for short "impugned order") passed by the learned Judicial Magistrate First Class, Waghodiya (for short "learned trial Court") by which, the Criminal Misc. (Muddamal) Application No.22 of 2026 filed by the applicant for release of his vehicle SUZUKI ACCESS bearing registration GJ.34.AA.4938, Chasis no.MB8EN11ALS8779362 and Engine no.AF266415504 has been rejected by the learned trial Court.

2] On being served with the notice, Mr.C.G.Patel, learned APP remained present for the State and produced the report of Investigating Officer vide Ex.4.

3] Heard the learned advocate for the applicant and learned APP for the State at length.

4] The learned advocate for the applicant has submitted that the vehicle bearing registration GJ.34.AA.4938 owned by the applicant has been seized by the police in connection with the FIR being C.R.No.11197057260074/2026 registered with Waghodiya Police Station, Vadodara Rural, for the offences punishable under Section 65(a), 65(e), 98(2),81 of the Prohibition Act. He further submitted that the applicant is using his vehicle for his day to day work. Therefore, he is in need of his vehicle. He further submitted that if the vehicle remains in unused condition for long period, then the said vehicle including spare parts such as tyres, tubes, batteries and other parts of the vehicle

will be damaged. He has further submitted that the trial may take long time to conclude it and thus, keeping the vehicle idle at the police station would not served any purpose and therefore, the vehicle seized by the police may please be handed over to the applicant on suitable conditions.

5] On the other side, the learned APP for the opponent-State has strongly opposed this application and contended that the vehicle in question has been seized by the police in the offence punishable under the Gujarat Prohibition Act. He has further submitted that the learned trial court has rightly rejected the application keeping in mind the amended provisions of Section 98(2) of the Gujarat Prohibition Act. He has further submitted that when the quantity of liquor seized is more than 20 liters, the vehicle involved in such offence cannot be released as per Notification published in Gazette dtd. 06.11.2019. He has further submitted that, in view of the embargo contemplated under the provisions of Section 98 of the Gujarat Prohibition Act, the learned trial court has no jurisdiction to release the vehicle in question where the quantity of the liquor recovered exceeds 20 liters in quantity. It is, therefore, submitted that the present revision application may please be dismissed.

6] Considering the submissions of the learned advocates of both the parties, the following points arise for the determination:

1. Whether the order dated 06.02.2026 passed by the learned trial Court in Criminal Misc. (Muddamal) Application No.22 of 2026 is erroneous, illegal and perverse and requires interference by this Court?
2. What order?

7] My findings to the above points are as under:

1. In the negative.
2. As per final order.

: **REASONS** :

Point No.1:

8] On perusal of the police papers, it is apparent that total 174 quarter bottles of IMFL came to be seized and the present muddamal vehicle was used for ferrying the prohibited liquor.

9] The present applicant being the owner of seized vehicle filed an application under Section 451 of the Criminal procedure Code before the learned trial Court praying for release of the seized vehicle. The learned trial Court, by its order rejected the application filed by the applicant by observing that where the quantity of the liquor seized exceeds twenty litres the seized vehicle would not be released as stated in Government Gazette dtd.06.11.2019.

10] The Hon'ble High Court of Gujarat in the case of **Pareshkumar Jaykarbhai Brahmhatt v/s. State of Gujarat in Special Criminal Application (Possession of Muddamal) No.8521 of 2017** has held that the Gujarat Prohibition Act is a special act and it will prevail over the procedural law i.e. Criminal Procedure Code, Sec.451 and therefore, the power of Magistrate to order interim release of the seized vehicle under section 451 or 457 of Cr.P.C. has been curtailed by virtue of Section 98(2) of the Prohibition Act. It is relevant to note that the Government of Gujarat by its Notification dated 6th November, 2019 is pleased to make rules and further to amend

the Gujarat Prohibition (Liquor Sample and Determination of Quantity Seized Liquor), Rules, 2012 and thereby, words "ten liters" has been substituted the words "twenty liters".

11] In the case of **Anilkumar Ramlal @ Ramanlalji Mehta Vs. State of Gujarat [2018(0) AIJEL_HC 239613]** as relied on by the learned advocate for the applicant, the Hon'ble High Court of Gujarat has exercised writ powers under Article 226 of the Constitution of India while releasing the vehicle seized by the police in the offence of Gujarat Prohibition Act, 1949. This Court has no such extraordinary powers and hence, the said judgment would not be helpful to the applicant.

12] In the case of **Khengarbhai Lakhabhai Dambhala Vs. The State of Gujarat**, Reported in **AIR 2024 SC 2139**, at Para-15 Hon'ble Supreme Court has observed as follows :

“Para-15 : So far as the facts of this case are concerned, the vehicle in question appears to have been seized as it was allegedly carrying huge quantity of liquor exceeding the prescribed quantity. However, there is nothing on record to suggest as to whether the said vehicle was sought to be produced before the concerned court so as to invoke Section 451 of Cr.P.C. or whether such vehicle was forwarded by the police officer to the concerned Magistrate as contemplated in Clause (a) of Section 132 of the said Act. In absence of any such factual material placed on record, it is difficult to release the vehicle in question in favour of the appellant.”

13] A per police papers, total 174 quarter bottles of IMFL came to be seized and the present muddamal vehicle was used for ferrying the prohibited liquor which exceeds twenty litre. That apart, even in this case it is not clear as to whether the said vehicle was sought to be produced before the Ld. Trial Court so

as to invoke Section 451 of Cr.P.C. or whether such vehicle was forwarded by the police officer to the concerned Magistrate as contemplated in Clause (a) of Section 132 of the said Act. Thus, the learned trial court has rightly refused to release the seized vehicle where the quantity of seized liquor exceeds 20 liters in quantity. Therefore, in view of the embargo contemplated under the provisions of Section 98 of the Gujarat Prohibition Act and also considering the judgment of our Hon'ble High Court of Gujarat in the case of Pareshkumar Jaykarbhai Brahmhatt (supra), as well as considering the Notification of Government of Gujarat dated 6th November, 2019, the learned trial court has committed no error in rejecting the application of the applicant.

14] In view of what has been discussed herein-above, this Court comes to the conclusion that the learned trial court has not committed any error in rejecting the application of the applicant and thus, the order of the learned trial court is legal and proper. Thus, this Court do not find any ground to interfere with the order of the learned trial court. Hence, I answer point no.1 in negative.

Point No.2:

15] In view of the above discussions, the present revision application deserves to be dismissed. Hence I pass following final order:

: ORDER :

1. This Criminal Revision Application is hereby dismissed.

2. The order dated 06.02.2026 passed by the learned trial court in Criminal Misc. (Muddamal) Application No.22 of 2026 refusing to release the seized vehicle is hereby confirmed.
3. The concerned trial Court/Police Station be informed accordingly.

**Signed and pronounced in open Court today
i.e. on 6th day of March, 2026.**

Place: Savli.

Date : 06.03.2026

(A.M.Varma)

**9th Additional Sessions Judge,
Vadodara at Savli
(GJ-00577)**