

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-I,
KOTTARAKKARA.**

Present: - Sri. Arjun Raj. E. R., Judicial Magistrate of the 1st Class.

Dated this the 17th day of March, 2026.

CMP No.2/2026 in Crime No.253/2026 of Kottarakkara Police Station

Petitioner : Muhammed Ashiq, aged 23 years, S/o Shaju,
Valiyavila Veedu, Kottarakkara Village.
(By Adv. G. Shajimon)

Respondent : State represented by the Sub Inspector of Police,
Kottarakkara.
(By Smt. Shyla Mathai, A.P.P. Gr. - I, Kottarakkara)

Heard, perused the records and passed the following:

O R D E R

1. This petition is filed by the petitioner under section 497 BNSS to release the Honda Activa Scooter bearing registration No.KL-02-BE-8194 to the interim custody of the petitioner.
2. **Petition averments in brief are stated as follows:-** The petitioner submits that he is the registered owner of the Honda Activa Scooter bearing registration No.KL-02-BE-8194 that was seized by Kottarakkara Police in connection with Crime No.253/2026. The vehicle is produced before the Court. The vehicle is currently kept in the premises of the Kottarakkara Police Station, exposed to adverse weather conditions, resulting in its deterioration and potential loss of utility. The petitioner also submits that the vehicle of the number is mistakenly noted as KL-16N-1802 in FIR. Hence, this petition has been filed seeking interim custody of the vehicle.
3. Report was called for from the prosecution. The Sub Inspector of Police, Kottarakkara Police Station, filed report stating that the vehicle number KL-02-BE-8194 was taken into custody with a forged number plate having number as KL-16-N-1802 and on verification it is seen that the chasis number and engine number of the vehicle is of the vehicle carrying number KL-02-BE-8194. Hence no objection was filed for releasing the vehicle.

4. Heard both parties and perused the records.
5. Learned APP submitted no objection for releasing the vehicle to the interim custody of the petitioner.
6. Upon consideration of the prosecution records and the averments in the petition, and after examining the list of documents submitted by the petitioner, the Court is satisfied that the petitioner is the registered owner of the vehicle in question. The petitioner has asserted that his Honda Activa Scooter, bearing registration No.KL-02-BE-8194 and fitted with a forged number plate KL-16-N-1802, which was seized by the police in connection with the present crime, is presently lying idle at the police station and exposed to adverse weather conditions. It is a well-established fact that continuous exposure to sunlight and rain can cause significant damage to a vehicle, rendering it unusable over time. The petitioner has also produced copies of the registration certificate, Aadhaar card, Driving licence and the insurance certificate in support of his claim. Further the offence alleged against the accused is under section 303(2) and 329(3) of Bharatiya Nyaya Sanhita and the releasing of the vehicle to the interim custody of the petitioner will not have any effect upon the prosecution case.
7. While considering an application of this nature, the decision rendered by the Hon'ble Apex Court in ***Sunderbhai Ambalal Desai V. State of Gujarat*** reported in ***AIR 2003 SC 638*** need to be considered. In the aforesaid decision it is held that the powers of 451 of Cr. P. C. should be exercised expeditiously and judiciously. It was further held that when an application is filed under section 451 of Cr.P.C, power should be exercised properly and promptly and the Magistrates should take care that the articles are not kept for long time at the police station. Applying the principles laid down in *Sunderbhai Ambalal Desai v. State of Gujarat*, this Court is of the considered view that it would be appropriate to grant interim custody of the vehicle to the petitioner, subject to adequate safeguards to ensure that the evidence is not tampered with. Accordingly, the petition is allowed, and interim custody of the Scooter is granted to the petitioner, subject to the following conditions.
 - 1) Petitioner shall execute a bond for a sum ₹45,000/- (Rupees Fortyfive Thousand only) with two solvent sureties each for the like sum.

- 2) Petitioner shall take four photographs of the vehicle in four different angles showing its present condition along with CD as per sec.63 of Bharatiya Sakshya Adhiniyam to be issued by the photographer. Photographs shall be attested by the petitioner and the Investigating Officer.
- 3) Investigating Officer shall produce a detailed panchnama of the vehicle.
- 4) Petitioner shall produce the vehicle as and when required by the Court.
- 5) Petitioner shall file an undertaking that he will not alienate, encumber or make any modification in the vehicle without obtaining prior permission from the Court till a final order is passed.
- 6) Petitioner shall also produce the original registration certificate and other documents, copies of which are produced along with this petition, for verification and the office is directed to return the original registration certificate and other documents after verification.
- 7) Office shall also ensure the identity of the petitioner

Pronounced by me in open court on this on 17th day of March, 2026.

Sd/-

Judicial Magistrate of the 1st Class-I, Kottarakkara.

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Judicial Magistrate of the 1st Class-I, Kottarakkara.