

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE I CLASS-
II, PEERMADE.**

Present: Smt. Aswsathy I.S., Judicial Magistrate of the I Class – II

Tuesday, the 02nd day of June, 2026/12th day of Jyaishta, 1948.

CMP No. 1414/2026 in Crime No. 75/2026
of Kumily Police Station.

Petitioner : Shijin Shaji (aged 32 years/2026), Njalil (H), Kumily
Village, Peermade Taluk, Idukki, Pin - 685509

(By Adv. R. Prasanthkumar).

Respondent : State represented by the Inspector of Police, Kumily Police
Station in Crime No. 75/2026.

(By Sri. Unnikrishnan V.V. A.P.P. Gr. - II, Peermade)

Order : Petition is allowed.

This petition having been finally heard on this day, the Court passed the following:-

ORDER

1. This is a petition filed by the petitioner, who is the first accused in Crime No. 75/2026 of Kumily Police Station, seeking the release of the Maruti Alto Car bearing registration No. KL-38-C-7620 in PR No. 46/2026 of this court.
2. Though the petition is one filed under Section 498 of the Bharatiya Nagarik Suraksha Sanhita (in short "BNSS"), it is seen from the records that the trial in CC 122/2026 is not yet concluded. Therefore, the invocation of Section 498 is noted to be misnomer and the present petition is treated as one filed under Section 497 BNSS.
3. **Petition averments, in brief, is as follows:** Petitioner is the registered owner of the above said car that was seized by the Sub Inspector of Police, Kumily Police Station in connection with Cr. No. 75/2026 under sections 117(e), and 113(a) of Kerala Police

Act, 2011 (in short “KP Act”). Now it is kept in the premises of Kumily Police Station exposed to bad weather. This will render the vehicle useless. Thus, this petition is filed for getting the interim custody of the vehicle.

4. Report was called for from the prosecution. The Inspector of Police, Kumily Police Station filed report stating the investigation is complete, the final report has been submitted before the Court and there is no objection from the police to releasing the vehicle to the petitioner.
5. Perused the records and heard both sides.
6. The court is satisfied that the petitioner is the registered owner of the vehicle. Petitioner states that his vehicle seized by the police in connection with this crime is kept idle in the police station exposed to bad weather. This will definitely render the vehicle useless within no time. Petitioner has produced the copies of the Aadhar Card, insurance certificate, and registration certificate. While considering an application of this nature, the decision rendered by the Hon’ble Supreme 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 dictum laid down in *Sunderbhai Ambalal Desai* case, this Court is of the view that it is only proper to give the interim custody of the vehicle to the petitioner herein after taking sufficient precautions to ensure that the evidence will not be tampered. Thus, the petition is allowed and the interim custody of the vehicle is given to the petitioner on the following conditions.

1. Petitioner shall execute a bond for Rs. 1,50,000/- (One Lakh Fifty Thousand Rupees only) with two solvent sureties each for the like sum.
2. Petitioner shall file an undertaking that he will not alienate, encumber or make any modification in the vehicle without obtaining prior permission from this Court till a final order is passed under section 498 BNSS.

3. Petitioner shall produce the vehicle as and when directed by the court.
4. Petitioner shall not use or cause to be used the released vehicle to commit any offence of similar nature.
5. Petitioner shall produce the photographs from all angles of the vehicle along with the compact disc. The Photographs shall be attested by the petitioner and counter-signed by the Investigating Officer.
6. Petitioner shall produce the originals as well as the attested copies of registration certificate, insurance certificate, tax token and a certificate u/S. 63(4) of Bharatiya Sakshya Adhiniyam, 2023 issued by the photographer. The office is directed to verify, compare the copies with the originals and return the originals after making necessary endorsements.

Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and Pronounced in the open court on this the 02nd day of June, 2026.

Sd/-

Judicial Magistrate of the First Class -II, Peermade.