

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II,
NEYYATTINKARA.**

Present:Smt. Nimmi Nair. M, Judicial First Class Magistrate-II, Neyyattinkara

Wednesday, 4th day of March 2026

Crl.M.P No.6/26

**In
CC.133/26**

Petitioner/	:	Shihas.M, S/o Maheen, TC.46/238(1), Puthuval Puthen Veedu, Paruthikuzhi, Poonthura P.O <i>(By advocate Nithin S)</i>
Respondent	:	The State of Kerala represented by the Sub Inspector of Police, Thiruvallam Police Station, in crime no.5/26. <i>(By Assistant Public Prosecutor, Neyyattinkara Sri. Saji. A.V)</i>
Offence	:	Under Sections 296(b), 126(2), 115(2), 309(3), 351(2), 238 and 117(2) read with section 34 of the Bharatiya Nyaya Sanhita, 2023.
Order	:	Petition is allowed.

This Crl.M.P having been heard on this day, and the Court on the same day, passed the following:-

ORDER

1. This is an application filed by the petitioner under section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for releasing the autorickshaw bearing registration No.KL.01.CV.6052 into the interim custody of the petitioner.
2. The prosecution case is that the autorickshaw bearing registration No.KL.01.CV.6052 was involved in Thiruvallam Police Station Crime No.5/26 registered by the Sub Inspector of Police, Thiruvallam Police for offences under

sections 296(b), 126(2), 115(2), 309(3), 351(2), 238 and 117(2) read with section 34 of the Bharatiya Nyaya Sanhita, 2023.

3. The petitioner prays that he is the Registered Owner of the vehicle bearing registration No.KL.01.CV.6052 which was seized by the Thiruvallam Police Station. The above vehicle is now kept within the premises of Thiruvallam Police Station. If it remains there, it will get damages and petitioner will be put to great hardship. Hence, this petition.
4. Heard the learned counsel for the petitioner and learned Assistant Public Prosecutor. The learned Assistant Public Prosecutor opposed the application.
5. On the perusal of prosecution records and documents filed by petitioner, I am prima facie satisfied that, the petitioner is the R.C owner of the vehicle and he is entitled to the immediate possession of same. The vehicle was seized by the Thiruvallam Police in Crime No.5/26 and was produced before this court. It was taken as file as T.No.2/26 and was produced before this court. The same was entrusted to Station House Officer, Thiruvallam Police Station to keep within his premises for safe custody.
6. As per the decision of Honourable Supreme Court in **Sundarbhai Ambalal Desai v. State of Gujarath** reported in **AIR 2003 SC 638**, wherein the Honourable Supreme Court has directed that, the power under section 497 B.N.S.S should be properly and promptly exercised. It was further held that the

owner of the vehicle would not suffer because of its remaining unused or by its misappropriation. The Court or police would not be required to keep the vehicle in safe custody. If the proper panchanama before handing over the possession of vehicle is prepared, that can be used in evidence instead of its production before the court during the trial.

7. Considering the submissions of learned counsel for the petitioner and learned Assistant Public Prosecutor on hearing and on perusal of prosecution records and documents filed by petitioner, this court is of the opinion that the vehicle bearing registration No.KL.01.CV.6052 remains unused and kept in Thiruvallam Police Station for a long period it may cause damage to the said vehicle and the petitioner will be put to great hardship. Moreover, as per the decision of the Honourable Supreme Court in Sunder Bhai Ambalal Desai v.State of Gujarath, it held that the power under section 497 B.N.S.S should be exercised expeditiously. Hence, I am allowing this petition and petitioner is given interim custody of the above vehicle on following conditions:-

1. The petitioner shall execute a bond of ₹.2,00,000/- (Rupees Two lakhs only) with two solvent sureties each for the like sum.
2. The petitioner shall take the photographs of vehicle bearing registration No.KL.01.CV.6052 in all angles and duly attest the same by petitioner, learned counsel for the petitioner and Investigating Officer and prepare a

proper panchanama signed by the petitioner and counter signed by the Investigating Officer shall be submitted before the court.

3. The petitioner shall produce the certificate obtained from the photographer in compliance with certificate Section 63 of the Bharatiya Sakshya Adhiniyam 2023.
4. The petitioner shall not alienate or transfer the above vehicle in any manner or encumber the vehicle or make any alteration thereto without the prior permission of the court and shall keep the same in good condition.
5. The petitioner shall produce the original documents including R.C book relating to the vehicle bearing registration No.KL.01.CV.6052 along with duly attested copies of the same. The office of this court shall after comparison return the original to the petitioner.
6. The vehicle bearing registration No.KL.01.CV.6052 shall not be used for similar offences or offence of any kind.
7. The petitioner shall produce the vehicle bearing registration No.KL.01.CV.6052 before the court as and when required by this court.

(Dictated by me, transcribed and typed by Confidential Assistant and corrected by me and pronounced in the open court, on this the 4th day of March 2026)

Judicial First Class Magistrate-II,
Neyyattinkara.