

IN THE COURT OF JUDICIAL MAGISTRATE NO .I, POLLACHI  
Present: Thiru. J.Saravana Kumar, B.A.B.L., (Hons.) .,  
Judicial Magistrate No.I, Pollachi  
Monday, the 09<sup>th</sup> day of March 2026  
**CRIMINAL MISCELLANEOUS PETITION. No.152/2026 in Cr.No. 26/2026**

Mohammed Iqbal(age 26/2026),  
S/o.Anifa,  
75,Vijayalakshmi Avenue,  
Manikandapuram,  
Vadaputhur.  
Coimbatore.

...Petitioner/Owner of the property

/ Vs. /

State of Tamil Nadu,  
Represented by the Sub Inspector of Police,  
Kinathukadavu Police Station,  
[Cr.No.26/2026]

...Respondent / Complainant

Offence : U/s. 304(2) BNS

**Petition: U/s. 497/503 of BNSS., filed by the petitioner to grant interim custody of case property.**

The petition filed U/s. 497/503 of BNSS, came up before me today for final hearing in the presence of M/s.S.Mohamed Ibrahim, R.Udhayakumar, S.Ajmal Basha, the Learned Counsels for the petitioner. The Respondent Police raised objections. Upon perusing the entire records and submissions made by the rival parties and having stood over for consideration till this date, this Court passes the following:-

**ORDER**

The petition is filed under U/s. 497/503 of BNSS, praying for interim custody of the vehicle Viz., TVS Appachi RTR 160 AV, bearing Reg. No. TN 39 CP 6388, Met Blue colour, Chasis No. MD637DE57I2G01124, Engine No. DE5GL2101078, involved in Cr.No.26/2026, U/s.304(2), pending on the file of the respondent police.

**THE CASE OF THE PETITIONER IS AS FOLLOWS:-**

1. The Petitioner is the owner of the property. The case property viz., TVS Appachi RTR 160 AV, bearing Reg. No. TN 39 CP 6388, Met Blue colour, Chasis No. MD637DE57I2G01124, Engine No. DE5GL2101078, belonging to the petitioner was seized by the police in the present case viz., Cr.No.26/2026. It is the submission of the petitioner that the vehicle is stationed in an open place and the long exposure to sun, rain and air would ensue in malfunctioning of automobile parts and diminish its value. Thereby, prayed for interim custody of the case property, pending disposal of the case.

2. From the affidavit the facts stated in para No.2 is revealed. From the Registration Certificate, it is shown that one E.Venkatesan, S/o.Eswaran, is the owner of the said vehicle. Today the above mentioned Venkatesan appeared before this Court and extended no objection to have interim custody of the vehicle to the petitioner. Thus it is proved that the petitioner herein has the possession of said vehicle seized in Cr.No.26/2026 of respondent police.

3. This court received the above mentioned case property on 29.01.2026 as PR.No.33/2026 and handed it over to the respondent police for safe custody of the same.

**REPLY & OBJECTIONS RAISED BY THE PROSECUTION:-**

4. The respondent police filed the reply and submitted that said vehicle will be indulged in offences in future. However, the police had objected to the claim of the petitioner in having interim custody of the bike.

**POINT TO BE DETERMINED :-**

5. Whether the petitioner/owner of the property is to be provided with an interim custody of the vehicle viz., TVS Appachi RTR 160 AV, bearing Reg. No. TN 39 CP 6388, Met Blue colour, Chasis No. MD637DE57I2G01124, Engine No. DE5GL2101078, pending disposal of the above case or not?.

**DISCUSSION:-**

6. The petitioner filed an affidavit, in support of the claim. The petitioner also filed Aadhar Card as his proof of address. On perusal of the above records, it reveals that the description of details of case property in given documents tally with the seizure mahazar and Form - 91 submitted by the respondent police. On physical verification of the vehicle, it contained the same engine number and chassis number as found in the documents produced in support of this petition.

7. The Hon'ble Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat* reported in 2002 SCC 10 283 has held as follows:-

"7. In our view, the powers under Section 451 Crpc., should be exercised expeditiously and judiciously. It would serve various purposes, namely:

1. owner of the article would not suffer because of its remaining unused or by its misappropriation;
2. court or the police would not be required to keep the article in safe custody;
3. if the proper panchanama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and
4. This jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles."

The Hon'ble Supreme Court had directed to grant interim custody of vehicles after obtaining proper panchanama and imposing conditions. Further, the detainment of above vehicle would only expose it to rains and sun and the same would consequent in rusting of vehicle, deterioration in use of mechanical parts and ultimately in diminishing of its value.

8. Considering the above facts and circumstances of the case, nature of offence involved, stage of Investigation, damages that would be caused to the vehicle due to long exposure to sun, rain and by keeping in mind the apprehensions raised by the prosecution, the vehicle is handed over to the petitioner as interim custody on certain conditions.

**RESULT:**

In the result, this petition is **allowed** on the following conditions.

- i) The petitioner shall execute a personal bond for a sum of Rs.15,000/ along with one surety as well as a document of an equivalent vehicle.
- ii) The petitioner shall produce the originals of documents for inspection at the time of producing surety.
- iii) The petitioner shall produce 3 sets of Photographs of the property taken all four sides along with a CD.
- iv) The petitioner shall sign the Panchanama.
- v) The petitioner shall not make any material alteration in the property and shall not sell the property or to make any alteration without permission of the court.
- vi) The petitioner shall produce the property as and when required by this Court or any other court to which the case committed or transferred or made over.
- vii) One set of Photographs and the CD and the Panchanama shall be kept in the file along with a spare copy of Photographs. The another set of photographs shall be given to the Investigation Officer of the case for keeping the same in CD file.

The Order was dictated to the typist and was directly typed in the Computer. Verified, corrected and delivered by me in the Open Court on this the Monday, the 09<sup>th</sup> day of March 2025.

(Sd/J.Saravanakumar)  
Judicial Magistrate No.I,  
Pollachi.