

IN THE COURT OF THE JUDICIAL MAGISTRATE No.2,  
Usilampatti  
**Present :- Thiru.G. Sathia Narayanan, B. A., B.L.,**  
**Judicial Magistrate, No.2,**  
**Usilampatti.**  
**Cr.MP.No.100/2026**  
**in**  
**Crime No.81/2026**  
Dated this the 07<sup>th</sup> day of April 2026

Sivakumar ( 44/2026)  
S/o. Subbaiah thevar,  
Jeyasri Mahal (Opp)  
Usilampatti road,  
Checkkanurani,  
Thirumangalam taluk,  
Madurai District.  
(Owner of the Property)

... Petitioner/ 2<sup>nd</sup> accused

-Vs-

State rep. through Sub Inspector of Police,  
Checkkanurani P. S.  
Crime. No.81/2026,  
U/s 21(5) MMDR Act, 303(2) BNS

.... Respondent/Complainant

**RPR No.87/2026**

This application has been filed U/s.497 and 503 BNSS praying to return the below mentioned case property as interim custody to the petitioner and the same was taken up today for hearing on 07/04/2026, And after Upon considering the averments of petition and reply received from prosecution, this court delivers the following :-

**ORDER**

1. Heard both sides and perused the materials available on record, the petitioner being the owner of the case property, seeks interim custody of below mentioned case property.

**Description of Property :-**

The case property of **TN 48 R 1224 Lorry (Good carrier), Engine No.697TC66NZY131076, Chasis No.MAT361203A7N43505.**

The affidavit of the petitioner avers that above said case properties was seized in connection with the said case. The case of the petitioner is that the **case property of TN 48 R 1224 Lorry (Good carrier), Engine No.697TC66NZY131076, Chasis No.MAT361203A7N43505** are recovered from the accused in this case. He is the accused herein and owner of the above said case property. He is ready to offer sufficient sureties. Hence prayed to hand over the above said property as interim custody to him.

2. The reply given by the concerned police states that the property belongs to the petitioner and strongly opposed to hand over the said property to the petitioner herein.

3. Before going into the facts and circumstances of this matter, it would be appropriate to discuss the guidelines laid down by the Hon'ble Supreme court with regard to disposal of case property. The Hon'ble Apex Court, in **SUNDERBHAI AMBALAL DESAI VS STATE OF GUJARAT**, succinctly explained the object and scheme of the various provisions of the Code as to disposal of case property. The Hon'ble Supreme Court, in the above case, observed as follows: "The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police, it ought not to be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary."

4. In view of the ratio-laid down by the Hon'ble Apex Court, it is clear that unless the case property is necessary, court cannot retain the case property either in its custody or in the custody of police for any time longer. Therefore, it is the duty of court to pass appropriate property orders according to law without any delay.

5. The petitioner has produced Photos of the case property of **TN 48 R 1224 Lorry (Good carrier), Engine No.697TC66NZY131076, Chasis No.MAT361203A7N43505.**

All records perused.

6. As discussed above and On perusal of records and examination of petitioner, this court finds that the petitioner has established a prima facie right to release the case property mentioned in description of property in his favour.

7. Considering the facts and circumstances of this case and considering the dictum laid down by the Hon'ble Supreme Court of India in the case of Sunderbhai Ambalal Desai Vs. State of Gujarat, this petition is partly allowed and this court is inclined to grant interim custody of the case property described in description of property ( to this petitioner subject to following conditions in the interest of Justice.

**Conditions :-**

1. The petitioner shall execute a bond for a sum of Rs.7,00,000/- ( Rupees Seven lakhs only) and furnish two sureties for likesum.
2. The case property shall not be alienated or encumbered without previous sanction of this court.
3. The case property shall be produced as and when required by this court for the purpose of inquiry or trial.
4. The photo of the case property shall be attested and filed by the petitioner.
5. The appropriate panchanama should be prepared and would form part of the record

as per Judicial form No.82, in order to Rule 257(1) of criminal rules of practice 2019.

Pronounced by me in open court on this the 07<sup>th</sup> day of April' 2026.

**Judicial Magistrate No.2,  
Usilampatti.**