

IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE

MADHAVARAM

**Present: Tmt.P.Deepa, B.A.B.L.,L.L.M.,
District Munsif Cum Judicial Magistrate, Madhavaram**

Tuesday, the 26th day of May 2026

CRL.MP.No.253/2026

in

Cr.No.133/2026

Gopalakrishnan, A/57 years,
S/o. Durgachalam,
No.512, Thiru.Vi.ka 1st Street,
Sembium, Chennai – 600011.

..... Petitioner/ Defacto Complainant

-Vs-

State Represented by
Inspector of Police,
M3 Puzhal Police Station,
Chennai-19.
[Cr.No.133/2026]

....Respondent/Complainant

Offence U/S.309(2) BNS.

Petition: U/S. 499 r/w 505 of BNSS filed by the petitioner to grant interim custody of case property.

The petition filed U/S. 499 r/w 505 of BNSS., came up before me today for final hearing in the presence of M/s. Mr.K.Rajeshkumar, Mr.K.Karthik, Mr.Silambarasan 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 S.499 r/w 505 of BNSS., praying for interim custody of the properties of ஒரு மூட்டையில் இருந்த பழைய பேட்டரிகள் சுமார் 18 , ஏழு மூட்டைகளில் உள்ள பழைய பேட்டரிகளின் எண்ணிக்கை சுமார் 90 and involved in Cr.No.133/2026, U/s. 309(2) BNS pending on the file of the respondent police.

1. THE CASE OF THE PETITIONER IS AS FOLLOWS:-

The petitioner is the owner of the case properties. The case properties viz., ஒரு மூட்டையில் இருந்த பழைய பேட்டரிகள் சுமார் 18 , ஏழு மூட்டைகளில் உள்ள பழைய பேட்டரிகளின் எண்ணிக்கை சுமார் 90 , belonging to the petitioner was seized by the police in the present case viz., Cr.No.133/2026. It is the submission of the petitioner that the property is stationed in an open place and the long exposure to sun, rain and air would ensue in rusting the properties and not use for further . Thereby, prayed for interim custody of the case property, pending disposal of the case.

2. This court received the above mentioned case property on 10.04.2026 as PI.No.30/2026 and handed it over to the respondent police for safe custody of the same.

3. REPLY & OBJECTIONS RAISED BY THE PROSECUTION:-

The respondent police filed the reply and submitted that the petitioner is the owner of the afore mentioned properties. However, the police strongly objected to the claim of petitioner in having interim custody of the properties.

4. POINT TO BE DETERMINED :-

Whether the petitioner is to be provided with an interim custody of the properties viz., ஒரு மூட்டையில் இருந்த பழைய பேட்டரிகள் சுமார் 18 , ஏழு மூட்டைகளில் உள்ள பழைய பேட்டரிகளின் எண்ணிக்கை சுமார் 90 pending disposal of the above case or not?.

5. DISCUSSION:-

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 properties in given documents tally with the seizure mahazar and form -95 submitted by the respondent police. The above documents reveal that the petitioner is the owner of the case properties. The address found in Aadhar Card tallies with the given documents. The respondent Police have also submitted that the petitioner is the owner of the case properties.

6. 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 499 r/w 505 of BNSS 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 properties after obtaining proper panchanama and imposing conditions. Further, the detainment of above properties would only expose it to rains and sun and the same would consequent in rusting of iron, and ultimately result in diminishing of its value.

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

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

- 1) The petitioner execute a own bond along with one surety for like sum of Rs.70000 /- to the property surety satisfaction of this court.
- 2) The petitioner shall produce the originals of documents for inspection at the time of producing surety.
- 3) The petitioner shall produce 3 sets of Photographs of the property taken all four sides along with a CD.
- 4) The petitioner shall sign the panchanama.
- 5) The petitioner shall not make any material alteration in the properties and shall not sell the properties or to make any alteration without permission of the court.
- 6) The petitioner shall produce the properties as and when required by this court or any other court to which the case committed or transfered or made over.
- 7) 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 Tuesday, the 26th day of May 2026.

**District Munsif Cum Judicial Magistrate,
Madhavaram**