

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/CRIMINAL REVISION APPLICATION (FOR MUDDAMAL) NO. 103 of
2026**

=====

MEET RAMJIBHAI KARIYAVARA
Versus
STATE OF GUJARAT

=====

Appearance:

MR KUNAL S SHAH(5282) for the Applicant(s) No. 1

MR BHARGAV PANDYA, APP for the Respondent(s) No. 1

=====

CORAM:HONOURABLE MS. JUSTICE GITA GOPI

Date : 27/03/2026

ORDER

1. By way of the present application under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant has prayed to quash and set aside the order dated 28.10.2025 passed by the learned 12th Additional Sessions Judge, Surat in Criminal Misc. Application no. 8103 of 2025, and also to release the Skoda four-wheeler vehicle having registration no. GJ-05 CM-8995 bearing Chassis no. TMBBEH3T99A301260 and Engine no. BKD896813 seized in connection with FIR no.11210015250109/2025 registered with DCB Police Station, Surat City for the offence punishable under Sections 8(C), 22(B) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the NDPS Act" for short).

2. Learned advocate Mr. Kunal Shah referring to the role attributed to the applicant submitted that MD Drug was found in the custody of the co-accused – Ketan @ Vakil Mansukhbhai Patel who was with the applicant in his vehicle. Mr. Shah submitted that no such contraband was found from the possession of the present applicant.
3. Mr. Bhargav Pandya, learned APP has submitted that the vehicle was used, within the knowledge of the applicant for transporting MD drugs and hence, submitted that the said fact has to be taken into consideration because there would be all chances that again the vehicle would be used for such illegal purpose.
4. In the case of **Bishwajit Dev v. State of Assam, (2025) 3 SCC 241**, the Hon'ble Supreme Court has dealt with the interim custody for the release of vehicle involved in the offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the NDPS Act"). Here, there is no case of the police that it was in connivance with the present applicant that the article was transported. In the case of **Bishwajit Dev** (supra), the Hon'ble Supreme Court was of the view that if the seized vehicle is not liable to confiscation

and if the owner of the seized vehicle can prove that the vehicle was used by the accused person without the owner's knowledge or connivance and that he had taken all reasonable precaution against such use of the seized vehicle by the accused person, there is no specific bar/restriction under the Act for retaining of any seized vehicle used for transporting narcotic drugs or psychotropic substance in the interim pending disposal of the criminal case.

5. In the case of **Sundarbhai Ambalal Desai v. State of Gujarat** reported in **2002 (10) SCC 283**, the Hon'ble Apex Court dealt with the provision of Section 451 of Cr.P.C. and has stated in Paragraphs 5 and 7 as under:-

"5. Section 451 clearly empowers the Court to pass appropriate orders with regard to such property, such as-

(1) for the proper custody pending conclusion of the inquiry or trial;

(2) to order it to be sold or otherwise disposed of, after recording such evidence as it think necessary;

(3) if the property is subject to speedy and natural decay, to dispose of the same.

7. In our view, the powers under Section

451 Cr.P.C. 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 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 properly 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."
6. Here, in the present matter, the allegation against the applicant is consumption of MD Drug while no such drug was found in his possession. The co-accused was carrying the said drug which was found from the inner part of his t-shirt, the plastic bag was removed and zip bag contained MD drug weighed about 30.150 gms.
7. The applicant as owner of the vehicle cannot be attributed with the knowledge of the co-accused carrying MD drug

under his t-shirt and merely just because there were telephonic conversation between both of them, the knowledge of accused of the co-accused carrying MD Drug cannot be attributed to the applicant.

8. In view of the above, the authority concerned is directed to release the Muddamal vehicle having registration no. GJ-05 CM-8995 bearing Chassis no. TMBBEH3T99A301260 and Engine no. BKD896813 of the applicant on the terms and conditions that the applicant:-

(i) shall execute a bond of Rs.10,00,000/-, (Rupees Ten Lacs Only);

(ii) shall file an undertaking on oath before the concerned Trial Court that prior to alienation or transfer of the vehicle in any mode or manner, prior permission of the concerned Trial Court shall be taken;

(iii) shall also file an undertaking on oath to produce the vehicle as and when directed by the Trial Court.

9. Learned advocate Mr. Shah also stated that the vehicle was purchased on hypothecation and HDFC Bank has issued a communication dated 16.1.2026 regarding the loan closure.

10. In view of the above, the present application is allowed in the above terms. Direct Service is permitted.

Maulik

(GITA GOPI,J)