

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL REVISION APPLICATION (FOR MUDDAMAL) NO. 371 of
2026**

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ASHWINKUMAR @ JALO NATVARLAL THAKKAR

Versus

STATE OF GUJARAT

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Appearance:

DARSHIT R BRAHMBHATT(8011) for the Applicant(s) No. 1

MS JYOTI BHATT APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE GITA GOPI**Date : 11/03/2026****ORAL ORDER**

1. The present application filed under Sections 438 read with section 442 of the Bhartiya Nagarik Suraksha Sanhita, 2023, challenges the order dated 21.01.2026 passed by the learned 3rd Additional Sessions Judge, Kheda at Nadiad in Criminal Miscellaneous Application No.1452 of 2025, rejecting the release of the muddamal iPhone 13 Pro of the ownership of the applicant.

2. Mr. Darshit R.Brahmbhatt, learned advocate for the applicant submitted that the muddamal iPhone 13 Pro came to be seized in connection with FIR No.11204047250383 of 2025 registered with Nadiad West Police Station for the offence under Section 8(c), 22(b) read with Section 29 of Narcotic

Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), where the allegation is that accused Ashwinkumar @ Jalo Natvarlal Thakkar was found in Car No.GJ-02-DP-4911 and it is alleged that without any pass-permit, he was holding 23 gram 450 milligram Mephedrone in a plastic bag which was kept in an iron box valued as Rs.2,34,500/-, which was seized along with one apple company mobile phone valued at Rs.5,000/-, one Tata Harrier valued at Rs.5,00,000/- with driving license and R.C. Book and cash amount of Rs.1570, in total the muddamal was valued as Rs.7,41,070/-.

2.1 Advocate Mr. Brahmbhatt further submitted that applicant - Ashwinkumar @ Jalo Natvarlal Thakkar was arrested, while the person alleged to have provided the Mephedrone drug, Mahendra Banna was not found from the place.

2.2 Advocate Mr. Bhrahmbhatt submitted that the application for bail of the applicant was granted by this Court on 01.12.2025 in Criminal Misc. Application No.24988 of 2025, where the co-ordinate bench observed from the FIR as well as the affidavit of the I.O. that the applicant was addicted

to the contraband substance Mephedrone, which had been procured for his personal consumption.

2.3 Learned advocate Mr. Bhrambhattach further stated that one of the condition, which was laid down against the accused in the bail order was the requirement to join the Rehabilitation Center.

2.4 Learned advocate Mr. Bhrambhattach referred to the muddamal car being Tata Harrier, Registration No.GJ-02-DP-4911, which is in the name of the wife of present applicant - Nehal Ashwinbhai Thakkar and also referred to the invoice, wherein the owner name is entered as Ashwinkumar Thakkar, dated 26.06.2022.

2.5 Learned advocate Mr. Brahmbhatt has relied upon the judgment of the Hon'ble Supreme Court in the case of **Bishwajit Dev v. State of Assam**, (2025) 3 SCC 241, to submit that the Hon'ble Supreme Court was of the view that 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.

3. Countering the arguments, learned Additional Public Prosecutor Ms. Jyoti Bhatt submitted that the value of the contraband drugs Mephedrone to tune of Rs.2,34,500/- would not suggests that it was merely for consumption, and also referred that earlier too the present applicant was arrested in similar case of NDPS, where he was carrying 5.378 milligram Mephedrone along with him and the same vehicle, which was in the name of his wife was seized, hence being an habitual offender, has urged to reject the application.

3.1 Learned APP further submitted that the present applicant was in habit of transporting narcotic drug in the form of Mephedrone, hence, now no muddamal should be released till the final disposal of the trial.

4. Heard learned advocates for the parties and perused the records of the case. The co-ordinate bench of this Court had

noted from the FIR as well as affidavit of the I.O. in the bail order of applicant - Ashwinkumar @ Jalo Natvarlal Thakkar, that he is addicted to the contraband substance Mephedrone. In earlier case the seizure of Mephedrone was recorded as 5.378 milligram. The accused was directed to go through the rehabilitation center.

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. The ownership of the iPhone 13 Pro is in the name of the present applicant. Keeping in view the provisions of Sections 51 and 52 of the NDPS Act along with the general provisions under Sections 451 and 457 of the Cr.P.C., this Court has considered the fact that the contraband article was not for the purpose of any transportation or sale but for personal consumption.

7. Here, the ‘muddamal’ in question is iPhone 13 Pro. The said Phone is lying unused as it has been seized and if it is kept for a long period, it would lose value with the passage of time, get rusted and ultimately become junk. The intention under Section 451 of Cr.P.C. is to make available the muddamal during the trial. Thus, the Phone can be handed over to the applicant, on imposition of certain terms and conditions so that the object under Section 451 of Cr.P.C. would be addressed.

8. In view of the above, the authority concerned is directed to release the Muddamal Phone being iPhone 13 Pro of the applicant on the terms and conditions that the applicant :-

(i) shall execute a bond of Rs.5,000/-, (Rupees Five Thousand Only);

(ii) shall file an Undertaking on oath before the concerned trial Court that prior to alienation or sale of the iPhone 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 iPhone 13 Pro as and when directed by the trial Court.

9. In view of the above, the present application stands disposed of. Rule made absolute to the aforesaid extent. Direct Service is permitted.

(GITA GOPI,J)

Pankaj

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: PANKAJ KUMAR PRASAD(HC00967), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 13/03/2026 17:28:42