

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL)
NO. 2163 of 2026**

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MUKESHBHAI LAKSHMANJI CHAUDHARY
Versus
STATE OF GUJARAT & ANR.

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Appearance:

MR TUSHAR CHAUDHARY(5316) for the Applicant(s) No. 1
MR H K PATEL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 01/04/2026

ORAL ORDER

RULE. Learned APP waives notice of rule for and on behalf of the respondents.

1. The petitioner has preferred this petition, seeking to invoke extraordinary jurisdiction of this Court under Article 226 and supervisory jurisdiction under Article 227 of the Constitution of India so also inherent powers of this Court under Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) with a prayer to release Muddamal Vehicle i.e Hyundai Creta Car bearing RTO registration No.GJ-08-DJ-1976, which was seized in connection with the FIR No.11195001250300 of 2025, registered with Aagthala Police Station, District Banaskantha for the offence punishable under Sections 8(C), 15(B) and 29 of the Narcotic Drugs and Psychotropic Substances Act (for short “NDPS Act”).

2. Learned Advocate for the petitioner has urged that this Court has wide powers under Article 226 of the Constitution.

3. Learned APP has opposed the present petition on the ground that the impugned vehicle was used in commission of the offence of NDPS Act and subsequently was seized. Therefore, the impugned vehicle is not required to be released and the same is required to be confiscated. Even the trial Court has relied on the judgment of the Hon'ble Apex Court in case of **Bishwajit Dey Vs State of Assam** reported in **2025 INSC 32**, and come to the conclusion that the vehicle is seized in connection with the offence of NDPS Act and liable to be confiscated in view of bar under Section 60 and is not required to be released. Hence, requested to dismiss the petition.

4. Heard learned advocates appearing for the respective parties.

5. Going through the allegations, this Court is of the considered view that merely because the vehicle is used in the commission of the offence of NDPS Act, is not a ground to refuse the application for release of muddamal. At the time of deciding the application for release of muddamal seized under NDPS Act which does not bar the jurisdiction under Section 451 of the Cr.P.C or Section 60 of the NDPS Act. Exercising the power under Section 60 of the NDPS Act the Court must have to satisfy that the vehicle was used in the transportation of alleged contraband and the vehicle was used in transportation either it was found in conscious possession. As per the case of prosecution the car was used for transportation of contraband by the co-accused based on the statement of co-accused but there is no evidence or material which suggest that from the said vehicle the contraband was seized.

6. Considering the above facts and keeping in mind the law laid down in the case of **Bishwajit Dey Vs State of Assam** reported in **2025 INSC 32**, as such no purpose would serve to keep the vehicle for identification in police station, it is expedient to avoid situation of vehicle getting deteriorated pending the trial and hence, keeping in mind the aforesaid peculiar fact and keeping in mind the law laid down by the Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **(2002)10 SCC 283**, with certain stringent conditions, present petition deserves consideration in exercise of powers under Article 226 of the Constitution of India.

7. Resultantly, this petition is ALLOWED. The order dated 24.12.2025 passed by the learned Additional Sessions Judge, Palanpur in Criminal Misc. Application No.1102 of 2025 is hereby quashed and set aside.

8. The learned Trial Court / authority concerned is directed to release the vehicle of the petitioner being Hyundai Creta Car bearing RTO registration No.GJ-08-DJ-1976, which was seized in connection with the FIR No.11195001250300 of 2025, registered with Aagthala Police Station, District Banaskantha on the terms and conditions that the petitioner:

- (i) shall furnish a solvent surety of the amount equivalent to the price of the vehicle in question stated in the FIR / panchnama.
- (ii) shall file undertaking before the learned Trial Court that he shall not transfer / change the identity, color etc. of the vehicle till final disposal of the trial.

(iii) shall produce the vehicle as and when directed by the learned Trial Court.

(iv) in the event of any subsequent offence, the vehicle shall stand confiscated;

(v) present order does not preclude the learned Magistrate / Authority from passing any order to initiate confiscation proceeding or auction order of vehicle;

9. Before release of the vehicle, concerned police authority shall take photographs / identity of the vehicle from all sides at the cost of the petitioner and shall draw necessary panchanama to that effect. Said panchanama and photographs shall be part of charge sheet papers for the purpose of trial.

10. A copy of this order be sent to concerned RTO, where the vehicle is registered, for necessary entry in the Register and to take notice that this Court has restrained transfer of vehicle till final disposal of the trial. Such transfer shall be subject to any order that may be passed by the learned Trial Court permitting transfer of vehicle.

11. Rule is made absolute accordingly. Direct service is permitted.

(M. R. MENGDEY,J)

AHS

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: AMIT SONAGARA(HCD0079), ENGLISH STENOGRAPHER GRADE TWO CLASS TWO, at High Court of Gujarat on 02/04/2026 10:14:35