

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL)
NO. 3589 of 2026

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MALEK ABDULHAK HANIFBHAI
Versus
STATE OF GUJARAT & ANR.

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Appearance:
ADILHUSHAIN M SAIYED(9723) 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”) with a prayer to release Muddamal i.e Refrigerator-Samsung Company, Double Door, Model No. RT26 H300RX/2016, 255 liters, which was seized in connection with the FIR bearing C.R.No.11199057250314 of 2025 registered with Rajpardi Police Station, Bharuch for the offence punishable under the Provisions of the Prevention of Cruelty to Animals Act, 1960 and Gujarat Animal Preservation Act, 1954.

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

can also take into account the ratio laid down in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in **AIR 2003 SC 638**, wherein, the Hon'ble Apex Court lamented the scenario of number of muddamal articles having been kept unattended and becoming junk within the police station premises.

3. Learned APP for the respondent has objected the submissions made by learned advocate for the petitioner in view of the provisions of confiscation of the vehicle contained in the Indian Penal Code and the Prevention of Cruelty to Animals Act, 1960, however, did not dispute that powers of this Court under Article 226 of the Constitution to order release of the muddamal article can be exercised at any time, whenever the Court deems it appropriate.

4. Heard learned advocates appearing for the respective parties.

5. It would be worthwhile to refer profitably at this stage to the observations made by the Hon'ble Apex Court in **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.

6. Resultantly, this petition is ALLOWED. The order dated 11.11.2025 passed by the learned Additional Judicial Magistrate, Jhagadiya in 11199057250314 of 2025 as well as the order dated 23.02.2026 passed by the learned Additional Sessions Judge, Ankleshwar in Criminal Revision Application

No.77 of 2025 are hereby quashed and set aside.

7. The learned Trial Court / authority concerned is directed to release the Muddamal article of the petitioner being Refrigerator- Samsung Company, Double Door, Model No. RT26 H300RX/2016, 255 liters, which was seized in connection with the FIR bearing C.R.No.11199057250314 of 2025 registered with Rajpardi Police Station, Bharuch on the terms and conditions that the petitioner:

- (i) shall furnish a solvent surety of the amount equivalent to the price of the muddamal article 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 muddamal article till final disposal of the trial.
- (iii) shall produce the muddamal article as and when directed by the learned Trial Court.

8. Before release of the muddamal article, concerned police authority shall take photographs / identity of the muddamal article 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.

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

AHS

(M. R. MENGDEY,J)