

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL)
NO. 6179 of 2025

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RAMDEVSINH MOHABBATSINH GOHIL
Versus
STATE OF GUJARAT

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Appearance:
MR.ALOK M THAKKAR(6510) for the Applicant(s) No. 1
MR ROHAN RAVAL, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 18/11/2025

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 Vehicle i.e Truck being Eicher bearing RTO registration No.GJ-04-X-7017, which was seized in connection with the FIR bearing C.R.No.11208002230015 of 2023 registered with Aji Dam Police Station, Rajkot City for the offence punishable under the Provisions of the Indian Penal Code and the Prevention of Cruelty to Animals Act, 1960.

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 vehicles 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 vehicle 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 15.03.2025 passed by the learned Additional Sessions Judge, Rajkot in Muddamal Application in Criminal Misc. Application No.769 of 2025 is hereby quashed and set aside.

7. The learned Trial Court / authority concerned is directed

to release the vehicle of the petitioner being Truck being Eicher bearing RTO registration No.GJ-04-X-7017, which was seized in connection with the FIR bearing C.R.No. 11208002230015 of 2023 registered with Aji Dam Police Station, Rajkot City 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.

8. 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.

9. 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.

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

(M. R. MENGDEY,J)

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