

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL)
NO. 6579 of 2026

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PUJA DALBIRSING BALDEVSING
Versus
STATE OF GUJARAT

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Appearance:
JAIVIK UDAY BHATT(7319) for the Applicant(s) No. 1
MR UDAY H BHATT(6457) for the Applicant(s) No. 1
MS KRINA CALLA, PUBLIC PROSECUTOR for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 15/07/2026

ORDER

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, with a prayer to release Muddamal cell phone, i.e. Apple I-phone 14, bearing IMEI No. 356416675357675 & 356416674804552, detained in connection with FIR CR No. 11995001250020 of 2025, registered with State Monitoring Cell, Gandhinagar, for the offences punishable under provisions of the Gujarat Prohibition Act.

2. Rule. Learned APP waives notice of rule for and on behalf of the respondent.

3. The case of the prosecution is that while the police personnel were on patrolling, they received a secret information about illegal liquor kept in a place and when police authorities raided the premises in question, they found the illegal liquor. Therefore, aforesaid FIR came to be registered.

4. Heard learned advocate for the petitioner and learned APP for the respondent.

5. Learned Advocate for the petitioner has urged that this Court has wide powers, while exercising such 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**', AIR 2003 SC 638, wherein, the Apex Court lamented the scenario of a number of muddamal having been kept unattended and becoming junk within the police station premises.

6. 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 muddamal contained in the Act, however, he 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.

7. The coordinate bench of this Court in the case of **Musa Khan Jat Vs. State of Gujarat (SCR.A/7190/2017)**, in an identical case, released the vehicle by exercising the power under Articles 226 and 227 of the Constitution of India.

8. It would be worthwhile to refer profitably at this stage to the observations made by the Apex Court in '**SUNDERBHAI AMBALAL DESAI VS. STATE OF GUJARAT**' (**Supra**), which read as under:

"15. Learned senior counsel Mr. Dholakia, appearing for the State of Gujarat further submitted that at present in the police station premises, number of vehicles are kept unattended and vehicles become junk day by day. It is his contention that appropriate directions should be given to the Magistrates who are dealing with such questions to hand over such vehicles to its owner or to the person from whom the said vehicles are seized by taking appropriate bond and the guarantee for the return of the said vehicles if required by the Court at any point of time.

16. However, the learned counsel appearing for the petitioners submitted that this question of handing over vehicles to the person from whom it is seized or to its true owner is always a matter of litigation and a lot of

arguments are advanced by the concerned persons.

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

9. Resultantly, this petition is allowed.

10. The learned Trial Court / authority concerned is directed to **release** the vehicle of the petitioner being Muddamal Vehicle, Muddamal cell phone, i.e. Apple I-phone 14, bearing IMEI No. 356416675357675 & 356416674804552, on the terms and conditions that the petitioner:

(i) shall furnish a solvent surety of the amount equivalent to the price of the muddamal in question stated in the FIR;

(ii) shall file undertaking before the learned Trial Court that he shall not transfer the muddamal till final disposal of the trial;

(iii) shall produce the muddamal as and when directed by the learned Trial Court;

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

11. Before release of the muddamal, concerned police authority shall take photographs of the muddamal from all sides at the cost of the petitioner and shall draw necessary panchanama to that effect. Said panchanama and photographs shall form the part of charge-sheet papers for the purpose of trial.

12. Rule is made absolute, accordingly. Direct service is permitted.

UMESH/-

(M. R. MENGDEY,J)