

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL)
NO. 15661 of 2025

=====

BARIA GANPATBHAI MOHANBHAI
Versus
STATE OF GUJARAT & ORS.

=====

Appearance:

MR. MAULIK M SONI(7249) for the Applicant(s) No. 1

NOTICE SERVED for the Respondent(s) No. 2,3

MR KANVA ANTANI, APP for the Respondent(s) No. 1

=====

CORAM: HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 30/04/2026

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 and Section 497 of BNSS, with a prayer to release Muddamal Vehicle i.e Mahindra & Mahindra Ltd. Bolero Maxx bearing RTO registration No. GJ-20-X-5053.

2. **Rule.** Learned APP waives notice of rule for and on behalf of the respondents. Though served nobody appeared for the respondent finance company.

3. The case of the prosecution is that while the police personnel were on patrolling, they received a secret information of the vehicle in question carrying liquor and when police authorities intercepted the same, on carrying out the search of the said

vehicle, it was found that the Accused was carrying liquor without any pass or permit. Therefore, an FIR being CR. NO. 11821025240346 of 2024 for the offence punishable under the Prohibition Act came to be registered before the Katvara Police Station, Dahod.

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 number of vehicles having been kept unattended and becoming junk within the police station premises.

6. Learned APP for the respondents has objected the submissions made by learned advocate for the petitioner and urged that, of course, 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. The authority concerned is directed to release the vehicle of the petitioner, being Mahindra & Mahindra Ltd. Bolero Maxx bearing RTO registration No. GJ-20-X-5053 on the terms and conditions that the petitioner:

- (i) shall furnish a solvent surety of the amount equivalent to the value of the vehicle in question as per the value disclosed in the seizure memo or panchnama.
- (ii) shall file an undertaking before the trial Court that prior to alienation or transfer in any mode or manner, prior permission of the concerned Court shall be taken till conclusion of the trial;

(iii) shall also file an undertaking to produce the vehicle as and when directed by the trial Court;

(iv) in the event of any subsequent offence, the vehicle shall stand Confiscated.

10. Before handing over the possession of the vehicle to the petitioner, necessary photographs shall be taken and a detailed panchnama in that regard, if not already drawn, shall also be drawn for the purpose of trial.

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

SAKSHI MAURYA

(M. R. MENGDEY,J)