

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

**R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL)
NO. 17506 of 2025**

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RAJ PETROLEUM PARTNER THRO PUSHPENDRASINH MAHENDRASINH
MAHIDA
Versus
STATE OF GUJARAT & ANR.

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Appearance:
MR MAULIK NANAVALY with PRATEEK S BHATIA(8629) for the
Applicant(s) No. 1
MS. VRUNDA SHAH, APP for the Respondent(s) No. 1

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CORAM: HONOURABLE MR. JUSTICE M. R. MENGDEY

Date : 29/01/2026

ORAL ORDER

1. By filing the present petition under Article 226 and 227 of the Constitution of India, the petitioner has prayed for the following reliefs:-
 - (a) Your Lordships may be pleased to admit and allow this application.
 - (b) Your Lordships may be pleased to order dated 17.11.2025 passed by the Learned Judicial Magistrate First Class, Limbdi in Mudammal Application No.53/2025 and order dated 17.12.2025 passed by the Learned Sessions Court, Limbdi, in Criminal Revision Application No. 52 of 2025. (Annexure-A (Colly).)

- (c) Your Lordships may be pleased to direct the respondent authorities to forthwith release and hand over the muddamal property, being BHARAT BENZ Tanker Truck bearing Registration No. GJ-05-CW-7020, along with the ethanol blended motor spirit and automotive diesel fuel seized therein, in connection with FIR No. 11211040250363/2025 registered with Panshina Police Station, District-Surendranagar, to the petitioner by way of interim custody, on such terms and conditions as this Hon'ble Court may deem fit and proper; (Annexure-B).
- (d) Pending hearing and final disposal of the present petition, Your Lordships may be pleased to grant interim custody of the muddamal property, being BHARAT BENZ Tanker Truck bearing Registration No. GJ-05-CW-7020, along with the ethanol blended motor spirit and automotive diesel fuel seized therein, in connection with FIR No. 11211040250363/2025 registered with Panshina Police Station, District-Surendranagar, in the interest of justice
- (e) An ex-parte ad interim relief in terms of prayer (C) above may kindly be granted;
- (f) Such other and further relief/s as may be deemed just and proper may kindly be granted in the interest of justice.

2. The facts and circumstances giving rise to filing the present petition are such that the F.I.R. being C.R.No.11211040250363 of 2025 of Panshina Police Station, District – Surendranagar for the offence punishable under the provisions of Sections 303(2), 287 and 54 of the Bharatiya Nyaya Sanhita and Sections 3 and 7 of the Essential Commodities Act. The truck bearing Registration No.GJ-05-CW-7020 loaded with ethanol was seized by the Investigating Agency in connection with the aforesaid F.I.R. The petitioner herein thereafter preferred an application under Section 497 of the Bharatiya Nagarik Suraksha Sanhita seeking release of muddamal in his favour before the learned Judicial Magistrate First Class, Limbdi. Learned Magistrate vide order dated 17.11.2025 dismissed the said application filed by the petitioner. Against which the petitioner had preferred Criminal Revision Application No.53 of 2025 before the Addl. Sessions Judge, Limbdi, District Surendranagar. The said Revision Application was also dismissed by the learned Addl. Sessions Judge, Limbdi vide order dated 17.12.2025. Being aggrieved with both these orders, the petitioner has approached this Court by filing the present petition.
3. Rule. Learned APP waives service of notice of rule for and on behalf of the respondent State.
4. Learned advocate Mr. Maulik Nanavaty appearing for the petitioner submitted that no proceedings whatsoever have been initiated against the petitioner under Essential

Commodities Act nor seizure had been effected in view of the provisions of Essential Commodities Act. He has also referred to Communication dated 12.12.2025 addressed by the District Supply Officer, Surendranagar to the Additional Public Prosecutor, Sessions Court, Limbdi, wherein it has been categorically stated that at the time of seizure of muddamal in question, none of the officer either Mamlatdar or deputy Collector or District Supply Officer or the Officer not below the rank of Mamlatdar was present nor he is in possession of the muddamal, which has been seized. Had it been the seizure under Essential Commodities Act. It ought to have been effected in presence not below the rank of Mamlatdar and when it is categorically stated in the aforesaid communication that the seizure in question had not been taken in presence of any such officer, it goes without saying that seizure in question was not effected under the provisions of Essential Commodities Act and it was merely a seizure effective during the course of investigation of offence punishable under the provisions of Bharatiya Nyaya Sanhita. Learned trial Court as well as learned Sessions Court in their respective orders have committed an error in dismissing the application filed by the petitioner merely on the ground that the seizure is effective under the Essential Commodities Act. He further submitted that the petitioner is registered owner of the truck in question and the chemical i.e. ethenol had been purchased by the petitioner under invoice. He, therefore, submitted to allow the present petition and quash and set aside the orders impugned in the present petition.

5. Learned Additional Public Prosecutor opposed the present petition *inter-alia* contending that since petroleum product was seized under the provisions of Essential Commodities Act were invoked against the present petitioner and the offence in that regard came to be registered and therefore, seizure of muddamal vehicle would unverifiably be under the Essential Commodities Act and therefore, the learned courts below have rightly dismissed the applications filed by the petitioner. He, therefore, submitted that the present petition may not be allowed and the same should be dismissed.
6. Heard learned advocates for the respective parties.
7. The petitioner is an owner of the truck bearing Registration No.GJ-05-CW-7020. The police authorities had received some information that petroleum product like petrol, diesel etc. were being transported illegally and those petroleum product were stolen from the other tanker. On the basis of said information, the raid was carried out and vehicle in question was found lying outside and allegedly within the jurisdiction of Panchina Police Station. The truck in question was loaded with the chemical namely, ethanol. There is nothing on record to indicate that the chemical in question was petroleum product and the Investigating Agency had seized the vehicle along with the chemical loaded therein. Learned Magistrate had dismissed the application filed by the petitioner under Section 497 of the Bharatiya Nagarik Suraksha Sanhita mainly on the ground

that since the provisions of Essential Commodities Act were invoked. The jurisdiction of the learned Magistrate was barred under Section 6(e) of the Essential Commodities Act. The said order passed by the learned Magistrate was approved by the learned Sessions Court in the revisional jurisdiction vide order dated 17.12.2025.

8. Learned advocate appearing for the petitioner has drawn attention of this Court to the relevant provision of the Essential Commodities Act. More particularly, Section 6(a) and 6(e) of the Act which provides for procedure to be followed for seizure to be effective under the Essential Commodities Act. There is nothing on record to indicate that any such procedure was followed at the time of seizure of the muddamal articles in question.
9. As noted hereinabove, it is also not clear from the record that as to whether the chemical in question was essential commodities or not as defined under the Essential Commodities Act. Learned advocate appearing for the petitioner has drawn attention of this Court to the Communication dated 12.12.2025 addressed by the District Supply Officer to the Additional Public Prosecutor wherein it is categorically stated that no officer authorised in that regard was present when the seizure was effected. These facts making position clear that the muddamal articles were not seized under the provisions of Essential Commodities Act and in view of the aforesaid discussion, it is to be believed that the seizure in question was effected during the course of investigation of offence punishable

under the provisions Bharatiya Nyaya Sanhita and therefore, the learned Magistrate as well as the learned Sessions Court had committed an error in dismissing the application filed by the petitioner before them respectively, merely on the ground that the learned Magistrate had no jurisdiction under Section 6(e) of the Essential Commodities Act to release the muddamal.

10. Under these circumstances, the petition deserves to be allowed and the same is hereby allowed. The orders impugned in the present petition are hereby quashed and set aside. The muddamal articles in question are ordered to be handed over to the petitioner in view of the provisions of Section 497 of the Bharatiya Nagarik Suraksha Sanhita. It will be open for the learned Magistrate to impose an appropriate condition while releasing muddamal in favour of the petitioner. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(M. R. MENGDEY,J)

NABILA