IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CRIMINAL APPLICATION (POSSESSION OF MUDDAMAL) NO. 16069 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE J. C. DOSHI

==========

Approved for Reporting	Yes	No

==========

RAKESH @AKASH SANTOSHBHAI AHIRE
Versus
STATE OF GUJARAT & ANR.

==========

Appearance:
MR N P PANDYA(11241) for the Applicant(s) No. 1
MR. DHARMIK G KHADAWALA(17610) for the Applicant(s) No. 1
MR MANAN MEHTA, APP for the Respondent(s) No. 1

==========

CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 23/11/2026

JUDGMENT

1. The petitioner has preferred present petition under Section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “the BNSS”), seeking interim custody of the vehicle i.e. Swift car bearing **Registration No. GJ-05-JV-6128,** which has been seized by the investigating agency in connection with the offence registered for the alleged violation of the provisions of the Gujarat Prohibition Act, 1949.

2. Learned advocate for the petitioner would submit that the petitioner is the lawful owner of the vehicle in question

and that the said vehicle came to be seized during the course of investigation. He would further submit that the vehicle is lying idle in the custody of the police and, on account of prolonged retention, is exposed to deterioration, depreciation and loss of its utility and value. He would further submit that the vehicle is required for its ordinary use and that the petitioner is ready and willing to furnish appropriate bond and security, as may be directed by this Court. Upon above submissions, he prays to allow the petition.

3. *Per contra*, the petition is opposed by the learned APP by contending that the vehicle was allegedly used for transporting prohibited liquor in contravention of the provisions of the Gujarat Prohibition Act, 1949. It is further submitted that the quantity of liquor seized exceeds the prescribed permissible limit and, therefore, the vehicle is liable to confiscation under Section 98(2) of the Gujarat Prohibition Act. According to the prosecution, in view of the aforesaid statutory provision, the vehicle ought not to be released during the pendency of the criminal proceedings. Upon above submissions, learned APP prays to dismiss the petition.

4. I have heard the learned advocate for the petitioner and the learned APP for the State. I have also perused the averments made in the petition, the objections raised by the prosecution and the material available on record.

5. The principal question which arises for consideration is

whether section 98(2) of the Act constitutes absolute embargo against interim release of seized vehicle in a particular quantity of liquor allegedly recovered and whether the jurisdiction of the competent Criminal Court to grant interim custody of a seized vehicle under Section 497 of the BNSS (corresponding provision u/s 451 of the Code of Criminal Procedure, 1973 (in short “the Code”) stands ousted merely because such vehicle is liable to eventual confiscation under the special enactment, namely, the Gujarat Prohibition Act, 1949?

6. Before examining the rival submissions on merits, it would be appropriate to refer section 497 of the BNSS, which reads as under:-

> *“497. Order for custody and disposal of property pending trial in certain cases.*
>
> *(1)When any property is produced before any Criminal Court or the Magistrate empowered to take cognizance or commit the case for trial during any investigation, inquiry or trial, the Court or the Magistrate may make such order as it thinks fit for the proper custody of such property pending the conclusion of the investigation, inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court or the Magistrate may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.*
>
> *Explanation.-For the purposes of this section, "property" includes-*
>
> *(a) property of any kind or document which is produced before the Court or which is in its custody;*

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

2)The Court or the Magistrate shall, within a period of fourteen days from the production of the property referred to in sub-section (1) before it, prepare a statement of such property containing its description in such form and manner as the State Government may, by rules, provide.

(3)The Court or the Magistrate shall cause to be taken the photograph and if necessary, videograph on mobile The object underlying the provision is to ensure that property seized during investigation or produced before the Court is properly preserved and that unnecessary retention of such property does not result in avoidable loss or hardship.phone or any electronic media, of the property referred to in sub-section (1).

(4)The statement prepared under sub-section (2) and the photograph or the videography taken under sub-section (3) shall be used as evidence in any inquiry, trial or other proceeding under the Sanhita.

(5)The Court or the Magistrate shall, within a period of thirty days after the statement has been prepared under sub-section (2) and the photograph or the videography has been taken under sub-section (3), order the disposal, destruction, confiscation or delivery of the property in the manner specified hereinafter.

7. Section 497 of the BNSS which corresponds to Section 451 of the Code deals with the order concerning custody and disposal of property pending inquiry or trial in certain cases. The provision empowers the competent Criminal Court to

make appropriate orders for the proper custody of property produced before it during an inquiry or trial. The object underlying the provision is to ensure that property seized during investigation or produced before the Court is properly preserved and that unnecessary retention of such property does not result in avoidable loss or hardship. The power conferred upon the Criminal Court is discretionary and is required to be exercised judiciously, having regard to the nature of the property, the circumstances of its seizure, its evidentiary value and the necessity, if any, for retaining its physical custody. The power relating to interim custody and the power relating to ultimate confiscation operate in different fields and at different stages. The former concerns proper custody during the pendency of proceedings, whereas the latter concerns the ultimate statutory consequence of the alleged offence.

7.1 Section 497 of the BNSS further provides for preservation of the evidentiary identity of the property through preparation of a proper description, photograph and videography thereof and preservation of such material as evidence. The statutory scheme, therefore, recognizes that preservation of the identity and evidentiary value of the seized property does not invariably require its continued physical detention in the custody of the police or the Court.

8. Recently, the Hon'ble Apex Court in case of **M/s ABC Express v. State of Gujarat, 2026 INSC 940**, examined earlier pronouncements as well as embargo contained in

section 98(2) of the Act and decided the issue. The said appeal arose from proceedings concerning a vehicle seized in connection with offences under the very same Gujarat Prohibition Act. The owner had approached the learned Chief Judicial Magistrate seeking interim custody under Section 497 of the BNSS. The application was rejected, and the rejection was affirmed by the Sessions Court and the Gujarat High Court. The Hon'ble Apex Court, after considering the rival submissions and the amended provisions of the Gujarat Prohibition Act, examined whether a vehicle seized in connection with an offence involving a large quantity of prohibited liquor could be released to its owner during the pendency of the criminal proceedings. Before considering the petition on its merits, it is appropriate to notice the material findings recorded by the Hon'ble Apex Court in paragraphs 11 to 17 of the aforesaid judgment. Since those paragraphs lay down the governing principles, their substance is set out below, with the material operative expressions retained.

> *"11. Section 98(2) of the Prohibition Act is not absolute embargo and the Trial Court must exercise its powers under Section 451 of the Code of Criminal Procedure, 1973 to pass appropriate order on the interim custody of the articles produced before the Court. We make particular reference to* ***Khengarbhai Lakhabhai Dambhala v. The State of Gujarat 2024 INSC 285*** *which arose in an analogous factual matrix and this Court dealing with an identical contention of statutory embargo under Section 98(2) of the Prohibition Act had examined the issue and the broader scheme of the Prohibition Act in some detail to held thus:*
>
> "*7. The respondent State has also raised the contention that Section 98(2) of the said Act puts an embargo against release of the vehicle till the final judgment of the court if*

the quantity of seized liquor is more than the prescribed quantity. Since, such contention is often raised, we deem it necessary to deal with the provisions contained in Section 98 of the Act also. Section 98 reads as under:-

"*98. Things liable to confiscation- (1) Whenever any offence punishable under this Act has been committed,*

> *(a) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,*
>
> *(b) where, in the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra flowers, or molasses,*
>
> *(c) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra flowers or molasses, in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass or authorization, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses which he has attempted to import, export or transport,*
>
> *(d) where, in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra flowers or molasses, shall be confiscated by the order of the Court.*
>
> *(2) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (1) is found and the other contents of such receptacle, package or covering and the*

animals, carts, vessels or other conveyances used in, carrying any such article shall likewise be liable to confiscation by the order of the Court. [but it shall not be released on bond or surety till the final judgement of the Court where the quantity of the seized liquor is exceeding the quantity as may be prescribed by the rules.]"

8. Sub-section (1) of Section 98 deals with the articles liable to confiscation, whenever any offence punishable under the Act has been committed. However, sub-section (2) of Section 98 is in two parts. The first part upto the conjunctive word "but", states about the confiscation of the articles like receptacle, package or covering and about the confiscation of the animals, carts, vessels or any other conveyances used in carrying any such article, and the second part starting with the conjunctive word "but" is perceived to be an embargo against release of the conveyance used for carrying the article liable to be confiscated if the quantity of the seized liquor carried in such conveyance is more than the prescribed quantity, till the final judgment of the court. It may be noted that the second part of sub-section (2) of Section 98 was incorporated by the Gujarat Act 29 of 2011. However, in our opinion, this incorporation of the second part by amendment in 2011 is not very happily worded, and therefore, it is seen as an embargo.

9. When the conjunction "but" is used in a provision, after the punctuation mark "comma", it is deemed that such conjunction is used to carve out an exception or proviso to the main provision. Meaning thereby, when the entire provision is divided into two parts by using the punctuation mark "comma" followed by the conjunctive word "but", the second part is required to be construed

as an exception or proviso to the first part. However, so far as sub-section (2) of Section 98 is concerned though it is in two parts connected with the conjunctive word "but", there is hardly any co-relation between the first part and the second part thereof. It is difficult to comprehend the second part of sub-section (2) as an exception or proviso to the first part thereof. Since it is not happily worded, applying the doctrine of harmonious construction, we will have to harmonise the provisions contained therein with the other provisions of the Act and with the provisions contained in the Cr.P.C.

***

14. Thus, on the conjoint reading of the provisions contained in Section 98 and 132 of the said Act and of Section 451 Cr.PC, it is discernible that all these provisions operate in different fields. Section 98 deals with the Confiscation of the Articles whenever any offence punishable under the Act has been committed. The second part of sub-section (2) thereof would come into play when the Prohibition Officer or Police Officer sends the seized article liable to be confiscated but not required as an evidence, to the Collector as per Clause (b) of Section 132. However, Section 451 of the Cr.P.C. would come into play when the article property seized during the course of inquiry or investigation is produced before the jurisdictional Court as per Clause (a) of Section 132 and the Court is called upon to pass appropriate orders for the proper custody of such article/property pending the conclusion of the inquiry or the trial.

***

16. It is true that when the property/vehicle is seized during the course of investigation and the same is produced before the concerned Criminal Court, it is incumbent on the part of the

concerned Court to pass appropriate orders for keeping the vehicle in proper custody pending the trial. It is also true that as held by this Court in case of ***Sunderbhai Ambalal Desai vs. State of Gujarat, [2002] Supp. 3 SCR 39 : (2002) 10 SCC 283*** *, it is of no use to keep the seized vehicles at the police stations for a long period and it is for the magistrate to pass appropriate orders for the proper custody of the said such vehicles during the pendency of the trial. However, as observed earlier, the appellant without approaching the concerned criminal court under Section 451 of the Cr.P.C seeking custody of the vehicle in question, directly approached the High Court by filing Special Criminal Application under Article 226/227 of the Constitution of India, which was not the proper course as adopted by the appellant."*

12. The Courts below have thus seriously erred in taking a narrow view of the powers under Sections 451, 457, 458 and 459 of the Cr.PC. The legislative purpose of these provisions is to grant courts broad discretion to assess a variety of factors and direct the custody or disposal of any property produced during inquiry or trial. In the leading case of ***Basavva Kom Dyamangouda Patil (Smt.) v. State of Mysore and Another*** ***(1977) 4 SCC 358,*** *a three-Judge Bench of this Court had held:*

"4. The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police it ought not to be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is

> *manifest that there may be two stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. " (emphasis supplied)*

13. ***Khengarbhai Lakhabhai Dambhala (supra)*** *had also appositely placed reliance on* ***Sunderbhai Ambalal Desai (supra)*** *, wherein this Court had itself drawn attention to the prevalent problem of large quantities of seized property being kept at police stations for very long periods without following the proper procedure. Applications under Section 451 CrPC have to be disposed of "expeditiously and judiciously" keeping in mind: (i) the owners interest and preventing hardship from loss of use or misappropriation; (ii) public/State interest in avoiding indefinite custody by police & courts; (iii) evidence-preservation, and using panchanama and photographs where the actual item need not be produced at trial; and; (iv) safeguarding the integrity of trial by recording evidence promptly to prevent tampering. A court ought not sit on seized property for years without cause. This was strongly reaffirmed in* ***General Insurance Council and Others v. State of Andhra Pradesh and Others*** ***2010 INSC 225****, also relied upon by the appellant, wherein the Court held:*

> *"15. It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable*

and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road. "

14. Applying the foregoing to the facts at hand, a cumulative assessment of the relevant factors certainly weighs in the appellants favour. Continued seizure of the truck causes it real and ongoing loss of livelihood to the appellant. The vehicle occupies space in the Police Station and serves no further purpose lying idle at the Police Station deteriorating and losing value with each passing day. We note that the chargesheet has already been filed. Any remaining evidentiary value may be preserved through panchnama, photography and videography, as was done when the appellants edible goods were released pursuant to the earlier orders of the Court. This Court has repeatedly emphasized the question as to what purpose is actually served by continued custody and placing the vehicle in a state of suspended animation.

15. Lastly, on the point of possible confiscation proceedings, we observe that precedent relied upon by the High Court, ***State of Madhya Pradesh v. Uday Singh (2020) 4 SCC (Cri) 473****, dealt with the confiscation regime under the provisions of the Indian Forest Act, 1927 as amended in relation to the State of Madhya Pradesh by Madhya Pradesh Act 25 of 1983, and Section 52-C of which excludes the jurisdiction of any other " court, tribunal or authority " once the concerned Magistrate is intimated of the confiscation proceedings. The other decision,* ***Multani Hanifbhai Kalubhai v. State of Gujarat and Another 2013 INSC 69****, arose under the Gujarat Animal Preservation Act, 1954 and in fact does not pertain to confiscation at all. The Prohibition Act contemplates its own procedure for confiscation which includes notice to the owner, opportunity of hearing, option to pay in lieu fine, and so on. This cannot stand in the way of the relief sought in the instant appeal.*

> *16. For the reasons stated above, we are of the view that the High Court, as also the Courts below, erred in declining interim release of the vehicle solely on the strength of Section 98(2) of the Prohibition Act without examining either the settled principles governing interim custody of seized vehicles or the effect of the amendment to the provision that took effect from 31.07.2024."*

9. Apt to note that the Hon'ble Apex Court while examining the purport of section 98(2) of the Act, held that said provision is not absolute embargo for releasing interim custody of the seized vehicle. The Hon'ble Apex Court held that trial Court must exercise its power u/s 451 of the Code (corresponding section 497 of the BNSS) and pass appropriate order concerning interim custody of article produced before it. The Hon'ble Apex Court for arriving at such conclusion, relied upon its earlier decision in case of **Khengarbhai Lakhabhai Dambhala (supra)**. In the said judgment, the Hon'ble Apex Court examined the scope of Section 98 of the Gujarat Prohibition Act, 1949, particularly the contention that Section 98(2) creates an embargo against the release of a vehicle where the quantity of seized liquor exceeds the prescribed limit. The Hon'ble Apex Court while examining the statutory scheme, held that the provisions relating to confiscation under Section 98 and the provisions concerning custody of property under Section 451 of the Code of Criminal Procedure operate in different fields. The Hon'ble Apex Court thereby made it clear that the mere liability of a vehicle to confiscation cannot be treated as an automatic prohibition against the exercise of judicial power concerning interim custody.

10. While examining broad judicial discretion and duty to exercise power, the Hon'ble Apex Court held that the Courts below had seriously erred in adopting a narrow interpretation of the powers conferred under Sections 451, 457, 458 and 459 of the CrPC (corresponding provision is sections 497, 503, 504, and 505 of the BNSS). These provisions are intended to confer broad discretion upon the Criminal Courts to examine the relevant circumstances and make appropriate orders concerning the custody or disposal of property produced during inquiry or trial. It is noticeable that the Hon'ble Apex Court relied upon the three-Judge Bench decision in **Basavva Kom Dyamangouda Patil (supra),** wherein it was held that property seized by the police ought not to remain in the custody of the Court or police for any period longer than absolutely necessary and should ordinarily be restored to its owner once the necessity for retaining it ceases. The principle is that the power concerning custody of seized property is not intended to become a source of unnecessary hardship to the owner. The Magistrate must examine whether continued retention is genuinely required or whether the object of investigation and trial can be achieved through appropriate safeguards.

11. Moreover, the Hon'ble Apex Court relying upon the judgment in case of **Sunderbhai Ambalal Desai (supra)** as well as in case of **General Insurance Council (supra),** reiterated that applications for interim custody under Section 451 CrPC must be decided expeditiously and judiciously.

12. Apt to note that the Hon'ble Apex Court has identified the following four considerations:

(a) Protection of the owner's interest and prevention of hardship arising from loss of use or possible misappropriation of the vehicle;

(b) Protection of public and State interest by avoiding indefinite detention of vehicles in police stations and Court premises;

(c) Preservation of evidence through panchnama and photographs, wherever production of the actual vehicle during trial is not indispensable; and

(d) Safeguarding the integrity of the trial by recording evidence promptly and preventing any possibility of tampering.

12.1 The Hon'ble Apex Court further emphasized that a Court ought not to retain seized property for years without sufficient cause. The Hon'ble Apex Court also referred to the practical reality that vehicles kept stationary in police stations deteriorate rapidly, lose roadworthiness and may suffer theft or removal of valuable components.

12.2 However, while perusing para 15 of the aforesaid judgment, the Hon'ble Apex Court considered the objection

based upon the possibility of future confiscation. It distinguished State of **Madhya Pradesh v. Uday Singh, (2020) 4 SCC (Cri) 473**, which concerned the confiscation regime under the Indian Forest Act, 1927, as amended in **Madhya Pradesh, and Multani Hanifbhai Kalubhai v. State of Gujarat, 2013 INSC 69**, which arose under the Gujarat Animal Preservation Act, 1954.

12.3 The Hon'ble Apex Court observed that the statutory regimes considered in those decisions were materially different. The Gujarat Prohibition Act contains its own procedure for confiscation, including notice to the owner, opportunity of hearing and the option of payment of fine in lieu of confiscation. The existence of such a procedure cannot, by itself, stand in the way of considering interim custody of the vehicle. While noticing the error on the part of learned Court below in declining interim release solely on the strength of Section 98(2) of the Gujarat Prohibition Act, without examining the settled principles governing interim custody of seized vehicles or the effect of the amendment which came into force on 31.07.2024, the Hon'ble Apex Court held that a Court cannot reject an application by mechanically invoking Section 98(2), without undertaking the judicial exercise mandated by the law governing interim custody.

12.4 It is also noticeable that the statutory amendment brought about by the Gujarat Prohibition (Amendment) Ordinance No. 2 of 2024, is changed with effect from 31.07.2024. Under the unamended provision, the second part

of Section 98(2) expressly provided that the vehicle shall not be released on bond or surety until final judgment where the quantity of seized liquor exceeded the prescribed quantity has been replaced by words “and the vehicle so confiscated may be auctioned before final judgment in the manner, as may be prescribed, with the permission of the Court, where the quantity of seized liquor exceeds such quantity as may be prescribed; and in such cases, the Deputy Superintendent of Police shall be the competent authority for such auction”, makes it clear that the embargo to release the seized vehicle on bond or surety pending trial, has been replaced by word “confiscated / confiscation”.

13. The prosecution may place reliance upon the decision of the Gujarat High Court in **Pareshkumar Jaykarbhai Brahmbhatt v. State of Gujarat, 2018 (1) GLH 558**. The said decision was rendered on 15.12.2017, when the earlier statutory language of Section 98(2) was in force and expressly contained the restriction against release on bond or surety until final judgment in cases involving liquor exceeding the prescribed quantity. However, the statutory position has materially changed following the 2024 amendment. Further, the Hon’ble Apex Court has now directly examined the controversy in **M/s ABC Express (supra)** including the amended Section 98(2), and has expressly declared that the provision does not operate as an absolute embargo against interim release. The earlier decision must, therefore, be appreciated in its proper statutory and precedential context. It cannot be applied mechanically as an absolute proposition

that the Magistrate has no jurisdiction to grant interim custody of a vehicle seized in a prohibition offence. To the extent that any earlier interpretation is inconsistent with the subsequent declaration of law by the Hon'ble Apex Court, the latter shall prevail under Article 141 of the Constitution.

14. Reverting to the facts of the present case, the petitioner claims ownership of the vehicle and seeks its interim custody during the pendency of the criminal proceedings. The prosecution's objection is substantially founded upon Section 98(2) of the Gujarat Prohibition Act. In view of the authoritative pronouncement in **M/s ABC Express (supra)**, such objection, by itself, cannot furnish a sufficient ground to reject the petition. This Court is required to examine whether continued physical detention of the vehicle is necessary for the purposes of investigation or trial. The fact that the vehicle has been used, allegedly or otherwise, for transportation of prohibited liquor may be relevant to the proceedings under the Prohibition Act, but it does not automatically establish that its physical detention throughout the trial is indispensable.

15. A motor vehicle is a valuable movable asset. Its prolonged detention in an open police compound exposes it to natural deterioration, depreciation, damage and loss of utility. The owner is deprived of its beneficial use and may suffer substantial financial loss. Such consequences ought not to be permitted to continue when the evidentiary identity and condition of the vehicle can be preserved through a detailed

panchnama, photography and videography.

16. The interest of the prosecution can adequately be protected by obtaining appropriate security and an undertaking from the petitioner to produce the vehicle whenever directed. The petitioner can also be restrained from transferring, alienating or creating any third-party interest in the vehicle. In the event of eventual confiscation, the security furnished and other safeguards imposed by this Court would remain available for appropriate orders in accordance with law.

17. It is equally necessary to clarify that grant of interim custody would not amount to acquittal, discharge or any determination concerning the allegations levelled against the accused nor would it extinguish the power of confiscation available under the Gujarat Prohibition Act. The criminal proceedings and the question of eventual confiscation shall remain open for determination in accordance with law.

18. In view of the aforesaid discussion, this Court is of the considered opinion that Section 98(2) of the Gujarat Prohibition Act does not constitute an absolute bar to the exercise of jurisdiction under Section 497 of the BNSS. The learned Magistrate is competent, and is required, to exercise such jurisdiction by considering the application on its own merits and by imposing appropriate safeguards.

19. Having regard to the ownership documents produced by

the petitioner, the circumstances of seizure, the period of detention of the vehicle, the stage of investigation, the necessity of its physical retention and the safeguards available for preservation of evidence, this Court finds that the continued detention of the vehicle is not warranted in the present case.

20. Consequently, the petition deserves to be allowed, subject to the conditions enumerated hereinafter.

21. The present petition is hereby allowed.

21.1 The petitioner is entitled to interim custody of the muddamal vehicle i.e. Swift car bearing **Registration No. GJ-05-JV-6128**, seized in connection with **C.R. No. 11210015260010** registered with DCB Police Station, Surat, subject to the following conditions:

21.2 The petitioner shall furnish a personal bond together with appropriate solvent surety of the amount equivalent to the price of the vehicle in question stated in the FIR to the satisfaction of this Court.

21.3 The petitioner shall undertake to produce the vehicle before the Investigating Officer or the competent Court as and when directed.

21.4 The petitioner shall not alienate, transfer, sell, mortgage or create any third-party interest in the vehicle

during the pendency of the criminal proceedings without prior permission of the competent Court.

21.5 Before handing over custody, the Investigating Officer shall prepare a detailed panchnama of the vehicle, recording its make, model, registration number, chassis number, engine number and existing physical condition.

21.6 The panchnama shall be accompanied by photographs and videography of the vehicle from all sides, including its identifying particulars, in the presence of the petitioner or his authorized representative and two independent witnesses. The same shall be placed on the record of the Trial Court.

21.7 The petitioner shall furnish an undertaking that the vehicle shall not be used for commission of any offence under the Gujarat Prohibition Act, 1949.

21.8 In the event the vehicle is ultimately ordered to be confiscated upon conclusion of the trial or otherwise in accordance with Section 98(2) of the Gujarat Prohibition Act, this Court shall be at liberty to proceed against the security furnished and/or pass such further or other orders, including for auction of the vehicle, as may be permissible in law.

21.9 The petitioner shall abide by all further conditions, if any, which this Court may consider necessary in the interest of the prosecution and the pending trial.

21.10 Upon compliance with the aforesaid conditions, the Investigating Officer shall hand over interim custody of the vehicle to the petitioner expeditiously.

22. It is clarified that the observations made in this order are confined to the question of interim custody of the vehicle and shall not be construed as an expression of opinion on the merits of the pending criminal proceedings or the question of eventual confiscation.

23. Copy of this order be send 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.

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

25. Registry is directed to circulate soft copy of this judgment to all the Judicial Officers of District Judiciary across the State of Gujarat.

(J. C. DOSHI,J)

SHEKHAR P. BARVE

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SHEKHAR PRAFULBHAI BARVE(HC00200), Principal Pvt. Secretary, at High Court of Gujarat on 23/11/2026 17:15:59