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IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS
JUDGE, PALANPUR, DISTRICT: BANASKANTHA.

Criminal Revision Application No.1/2019

Exh. _____

Vikramsinh Ganpatsinh Rajput (Balavat)

Age: 32 Years, Occu.: Driving,
 R/o Kahodi, Tal. Sivana,
 District: Badmer (Rajasthan).

.. ..Applicant

V/s

The State of Gujarat

.. ..Opponent

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APPEARANCE:

Mr. G. M. Judal, L.A. for the Applicant.
 Mr. R. P. Vaishnav, Learned A.P.P. for the
 Opponent State.

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Application: Revision u/s.397 of the Cr.P.C.
 against the order dtd. 27.12.2018
 passed by the Chief Judicial
 Magistrate, Palanpur in Muddamal
 Application filed by the
 applicant to get back possession
 of the Muddamal Vehicle Swift Car
 No. R.J.-16-CA-1298.

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J U D G M E N T

- 1) By this revision application u/s. 397 of the Code of Criminal Procedure, 1973, the applicant calls in question the legality and validity of the order dated 27.12.2018 passed by the learned Chief Judicial Magistrate, Palanpur in Muddamal Application, whereby the learned magistrate was pleased to reject the application, filed u/s. 451 of the Code of Criminal Procedure, for the interim release of the vehicle Swift Car No. R.J.16-CA-1298.
- 2) Heard the L.A. Mr. G. M. Judal for the applicant. He has argued that the offence u/s. 279, 304(A), 177 & 184 of Indian Penal Code is registered against the present applicant vide Palanpur City West Police Station I-C.R. No. 133/2018 and during the investigation the muddamal Swift Car No. R.J.16-CA-1298 which is of the ownership of the applicant, was seized by the police. Thereafter the applicant has applied for the interim custody of the muddamal Car under Section 451 of the Code of Criminal Procedure before the learned magistrate which was rejected only on the ground that the mechanical examination of the car was

not done by the R.T.O. and therefore the Investigating Officer has opined not to release the car in favour of the applicant. Moreover, it is further submitted that applicant is ready and willing to give the surety as per the order of the Hon'ble Court and is also ready and willing to follow all the conditions which will be imposed by the Hon'ble Court and will also give co-operation in the matter. Hence, he has prayed to allow the application of the applicant and to hand over the possession of the seized Muddamal vehicle to the applicant.

- 3) I have also heard learned A.P.P. Mr. R. P. Vaishnav on behalf of the State. He has argued that it is true that the mechanical examination of the car was pending when the learned magistrate had rejected the application of the applicant for the interim custody of the vehicle in question, however now it is done, now the Investigating Officer has no objection if the vehicle in question be released in favour of the applicant.
- 4) Having heard the learned advocates appearing for both the sides and having considered the

entire papers available on record, as such there is no dispute regarding the ownership of the vehicle in question. In other words looking to the R.C. Book, insurance policy and the other papers it clearly appears that vehicle in question is of the ownership of the present applicant and the learned magistrate has also observed this thing in his impugned order. It appears that the application of the present applicant was refused only on the ground that at that time mechanical examination of the vehicle in question was not done by the R.T.O., which is now done and as per the submission of learned A.P.P. Mr. R. P. Vaishnav the investigation is almost over and Investigating Officer is going to file the Charge-sheet against the applicant. Therefore, in my opinion there is no need of the vehicle in question for the investigation purpose and there is a force in the arguments of L.A. Mr. G. M. Judal that if the vehicle in question is kept out side of the police station in unused condition, there are all chances to get it damaged. Therefore, in view of the above discussion and also relying upon the ratio of the judgment of Hon'ble Supreme Court in case of **Sunderbhai Ambalal Desai V/s. State**

of Gujarat reported in (2002) 10 SCC 283, the impugned order of the learned Magistrate warrants interference hence, the following order.

O R D E R

This revision succeeds and is hereby allowed.

The order dated 27.12.2018 passed by the learned Chief Judicial Magistrate, Palanpur in Muddamal Application is hereby quashed and set-aside.

It is hereby ordered that the possession of the Muddamal Vehicle Swift Car No. R.J.16-CA-1298 which is seized in connection with the Palanpur City West Police Station I-C.R. No. 133/2018 be handed over to applicant **Vikramsinh Ganpatsinh Rajput (Balavat)** for interim period subject to produce ready solvency certificate of the 1-½ times amount of the vehicle as mentioned in the Panchnama and also subject to produce personal bond of the like amount with the following conditions:

Conditions:

- 1) That the applicant shall not make any alteration or modification in the appearance or colour and size of the seized Muddamal vehicle and to keep the same as it is.

- 2) That the applicant shall not directly or indirectly use the seized muddamal vehicle for such or any other offence or for any other illegal activity.
- 3) That the applicant shall not sell, transfer, mortgage or gift or shall also not dispose of the in any manner the seized muddamal vehicle during the trial of the case.
- 4) The applicant shall have to produce the seized muddamal vehicle as and when called by the Court at any time and at any place.

If any of the above conditions, is breached by applicant, the order & bond will be automatically stand cancelled.

Ready Solvency Certificate & Personal Bond be given before concerned trial Court.

A Copy of this order be sent to the trial Court.

Pronounced in the open Court today,
this 5th day of **January, 2019.**

PALANPUR.

(Vimal Kanaiyalal Vyas)

Sessions Judge,

Date:05/01/2019

B.K. DISTRICT, PALANPUR.

(Code : GJ00383)

VISHAL