



Criminal Miscellaneous Application No. 393/2022

CNR Number MHAH-24-002099-2022

Pravin Arjun Raut

.... Applicant

Versus

State of Maharashtra,
Police Inspector, Police Station Shrigonda,
Taluka- Shrigonda, District– Ahmednagar.

.... Opponent

Order Below Exhibit 1

1. The application is filed under section 457 of Code of Criminal Procedure 1973 (2 of 1974). The applicant has stated that the crime is registered bearing Crime Register number 611/2022 in Shrigonda police station. The police have seized the mobile of VIVO Y21 Company. The description of seized mobile is as per paragraph number 3 of exhibit one. IMEI1 number of mobile is 863035067967697 and IMEI2 number of mobile is 863035067967689. That seized mobile is herein after referred and called as 'said mobile'. The custody of said mobile is with Shrigonda police station. The applicant has further stated that applicant is owner of said mobile. The Police have seized said mobile. It may get damaged if it is kept idly in the police station.

2. The investigating officer has filed say vide exhibit 7. The investigating officer stated that the said mobile should be returned to applicant by imposing appropriate conditions. The learned APP has filed say vide exhibit 8 and raised strong objection.

3. I have perused the application, say filed by the Investigating Officer vide exhibit 7 and say filed by Ld. APP vide exhibit 8. I have perused the record and proceedings. I have also gone through verified copy of Tax Invoice of said mobile, verified copy of Aadhar Card of the applicant and copy of F.I.R. vide list exhibit 3 filed by the applicant in support of his application. The applicant has filed affidavit in support of his contentions vide exhibit 5. I have heard argument for applicant and learned APP. Upon hearing of both the sides, the following points arise for my consideration.

Serial Number	Points	Findings
1)	Does the applicant entitle for delivery of the said mobile ?	In the affirmative.
2)	What is the order ?	The application is allowed.

REASONS

As to point number 1 and 2 :-

4. The applicant has filed verified copy of Tax Invoice of said mobile, verified copy of Aadhar Card of the applicant and copy of F.I.R. vide list exhibit 3 in support of his application. The applicant has filed affidavit in support of his contentions vide exhibit 5.

5. On perusal of verified copy of tax invoice vide list exhibit 3, it reveals that the name of applicant is recorded as buyer of said mobile. On perusal of verified copy of Aadhar card vide list exhibit 3, it reveals

that, the name of buyer of Mobile and applicant is same. The applicant is in need of said mobile. Therefore, the Court is of the view that, no purpose will be sufficed by keeping the said mobile in police station.

6. I have perused section 457 of Code Of Criminal Procedure. The following are the ingredients of section 457 of Code of Criminal Procedure.

- a. There is seizure of any property by police officer and it is reported to Magistrate.
- b. Such property is not produced before criminal court during inquiry or trial.
- c. Magistrate may make the order in respect of disposal of such property or delivery of such property to the person who is entitled to possession of such property.

7. The applicant is owner of the said mobile. Therefore, the Court is of the view that, the applicant is entitled to possess said mobile, as he is owner of said mobile. No purpose will be sufficed by keeping said mobile in police station rather there will be damage to the parts of mobile. If said mobile is kept in police station, it may become useless. As the applicant is owner of said mobile, he is entitled for delivery of said mobile. Hence, I have answered point number 1 in the affirmative. Therefore, considering above facts and circumstances, the application is allowed. Hence, I pass the following order.

ORDER

- 1 The application is allowed.
- 2 The said mobile bearing IMEI1 number 863035067967697 and IMEI2 number 863035067967689 is to be returned and delivered to the applicant on following conditions.
 - a The applicant shall execute indemnity bond of Rupees 5,000/- (Rupees Five Thousand Only).
 - b The applicant shall not alienate, sell, or dispose of the said mobile in any manner as well as applicant shall not create any third party interest on the said mobile, till the conclusion of trial.
 - c The applicant shall not change the nature said mobile in any manner, till the conclusion of trial.
 - d The applicant shall produce the said mobile at his own cost as and when directed by the court.
 - e The applicant shall produce 1 colour photograph of the said mobile with his self attestation before concerned police officer for identification purpose in the trial.
- 3 The concerned police officer shall hand over said mobile to applicant, on identification of applicant and after preparing necessary memorandum and forward the same to court.

Date – 15/11/2022

Sd/-
Smt. K. A. Katkar
Judicial Magistrate, F.C., Shrigonda.

: C E R T I F I C A T E :-

I affirm that the contents of this pdf file order are same words as per original order.

Case No.	:	Cri. M. A. No. 393/2022
Name of Stenographer	:	Smt. S. V. Jadhav
Court Name	:	Joint Civil & Criminal Court, Shrigonda
Date of Decision	:	15/11/2022
Order signed by P.O. on	:	15/11/2022
Order uploaded on	:	15/11/2022