

Order below Exh.36 in Sessions Case No.84/2022
(CNR No. MHJG010007602022)

This is an application filed under Sec. 451 of Cr.P.C. by the applicant Rijwan Rajjak Nadaf, Age- 27 yrs., Occu- Labour, R/o. P.B.Road, Near Natraj Talkies, Malkapur, Tal. Karad, Dist- Satara, for releasing the property i.e. Apple iphone 11 pro (256GB) mobile IMEI No.353841108928961 seized by the Chopada City Police Station, in Crime No. 336/2022, for the offence punishable under sections 3/25, 7/25 r/w.34 of Arm Act on executing his indemnity bond.

2. Perused the contentions raised the application and the say of the Ld. APP for the State.

3. Heard, Ld. Adv. R.D.Kachhava for the applicant and Ld. APP Shri. R.B.Choudhari for the State.

4. The above Apple iphone 11 pro (256GB) mobile IMEI No.353841108928961 seized in the offence no.3/25, 7/25 r/w.34 of Arm Act.

5. It is contention of the applicant / accused is that he is owner and the person from own possession the aforesaid iphone mobile was seized by the City Police Station, Chopada for committing offence. The investigation is completed and charge sheet is filed. The above mobile is seized from his possession. So he entitled for temporary in possession of the aforesaid mobile till disposal of the aforesaid sessions case. It is the further contention that he is the owner of the said Apple iphone mobile of ownership are submitted alongwith charge-sheet. He is entitled for the temporary the possession of the aforesaid Apple iphone mobile.

6. APP for State Shri R.B.Chaudhri submit his reply as per Exh.58 and contended that applicant is not entitled for possession of the aforesaid mobile. The mobile might have been used for other purpose also. Considering the aspects application may be rejected.

7. I have gone through the application, charge-sheet and documents submitted alongwith charge-sheet. Heard advocate Shri R.D.Kachhava for the applicant accused. APP Shri R.B.Chaudhari for the State at length. Both of them argued as per the contention in the application and reply. To avoid repetition, I think the argument advanced by both of them are not necessary to reproduce on record.

8. While deciding the application u/s. 451, 457 of C.P.C. the Court has to see whether the person was asking temporary the custody of the property seized in offence is the person from whose possession the Apple iphone mobile is seized. In the present case applicant is person from whose possession the mobile is seized. In the investigation it reveals that the said mobile belongs to applicant / accused. So he is the proper person for entitlement of tampering the possession of the mobile. Hence, I proceed to pass following order.

ORDER

- 1) The application is allowed.
- 2) The interim custody of property i.e. Apple iphone 11 pro (256GB) mobile IMEI No.353841108928961 of the applicant Rijwan Rajjak Nadaf, Age- 27 yrs., Occu- Labour, R/o. P.B.Road, Near Natraj Talkies, Malkapur, Tal. Karad, Dist- Satara, seized by the Chopada City Police Station, in Crime No. 336/2022, for the offence punishable

under sections 3/25, 7/25 r/w.34 of Arm Act be released in his favour on his executing indemnity bond of Rs.1,00,000/-(Rupees One Lac only).

3) The applicant is directed that he shall not sell, alienate, transfer or create third party interest in the aforesaid mobile and as produced as when called during the trial.

Date: 04.02.2023

(P.R.Choudhari)
Addl. Sessions Judge-2, Amalner.