



GJMR010004952026



Received on : 28/02/2026  
Registered on : 28/02/2026  
Decided on : 10/03/2026

Exh. :

**IN THE COURT OF 2<sup>nd</sup> ADDITIONAL SESSIONS JUDGE,  
MORBI.**

**Cri.Misc.Appln.No.248/2026**

**Applicant :-**

**Narendrabhai Jagdishbhai Mer,**  
Aged: 25 yrs., Occ. - Labour Work  
Residing at Jonsnagar-1 Near Bilali Masjid, Ramesh  
Cotton Mill Raod, Morbi

**Vs.**

**Opponent :-**

**THE STATE OF GUJARAT**

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**BEFORE SHRI M. R. NADPARA  
2<sup>nd</sup> ADDITIONAL SESSIONS JUDGE, MORBI.**

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**Advocates:-**

**Mr. F. Z. Oja, Ld. Advocate for Applicant/Accused.**

**Mr. S. C. Dave, Ld. A.P.P. for Opponent/State.**

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**-:: JUDGMENT ::-**

**[1]** The present application has been filed under Section 497 of B.N.S.S., seeking interim custody of Mobile Phone i.e. Vivo X 70 Pro having IMEI No. 868265058464959, which was seized by the police in connection with the offence registered with Morbi City A Division police station vide I - Crime Registration No. 1085/2024 for offences punishable under Sections 103(1), 115(2), and 54 of the Bharatiya Nyaya Sanhita, 2023, and Section 135 of the Gujarat Police Act.

**[2]** It is the case of the applicant that he is the true and lawful owner of the said mobile phone and that the same was recovered during the course of investigation. The applicant has produced the purchase bill of Vivo X70 Pro bearing IMEI No. 868265058464959, which is marked at Mark 3/3, wherein the name mentioned in the bill is Narendrabhai Mer, showing that the said mobile phone belongs to the present applicant. Owing to the seizure of the said mobile phone by the police, the applicant is facing considerable hardship. It is further submitted that the mobile phone is presently lying with the police and, in the absence of proper care and usage, the device is likely to deteriorate and may ultimately become unusable.

**[3]** It is further submitted that the applicant has filed this application seeking interim custody of his mobile phone and the applicant is ready and willing to abide by all or any conditions

that may be imposed by this court. Hence, the present application may kindly be allowed. It is further submitted that no other person has put forth a claim of ownership or custody of the said mobile phone, hence, this application may be allowed as the applicant is the sole owner of the same.

[4] The Learned APP has opposed the present application and contended that during the course of investigation, at the time of preparing the panchnama of the place of incident, one black coloured VIVO company mobile phone having fingerprint lock and pattern lock was seized for the purpose of investigation and its value was assessed at Rs.5,000/-. Since the said mobile phone was locked, its model number and IMEI number could not be ascertained. It is further submitted that the said mobile phone was seized from the place of incident and forms part of the muddamal of the present case. Therefore, the prosecution has prayed that the said mobile phone may not be returned to the applicant at this stage.

[5] In view of the submissions and on perusal of record, it is evident that the present mobile phone has been seized during the course of investigation. Further, in support of ownership, the Applicant has produced xerox copy of the bill of the mobile phone. Further, on perusal of report submitted by I.O. vide Exh. 5, it is not the case of prosecution that custody of the mobile phone is required any more for the purpose of investigation or to

preserve any data of the mobile.

[6] The applicant is seeking interim custody of his mobile phone and therefore it would be relevant to note that the basic purpose of granting the interim custody of the mobile phone is to see that it may not unnecessarily remain before the Police Station in unused condition. In the case reported in **2003(2) G.L.R. 1337, 2002(10) SCC 290: Sundarlal Ambalal Desai vs. State of Gujarat**, guidelines have been issued in this regard and the Hon'ble Supreme Court has directed to decide the application of muddamal as early as possible and may be allowed on appropriate conditions.

[7] The ownership of the applicant in respect of the muddamal in question is not disputed. It is also evident that no other person has come forth with a claim over the said mobile phones. Therefore, it would not be reasonable to keep the Mobile devices without proper care and maintenance for a longer period till the conclusion of trial. Further the handing over of custody under section 497 of B.N.S.S. would not be of absolute nature but an interim arrangement of the custody of the muddamal mobile phone, while the Court may continue to have control over it.

[8] Therefore, in view of the above, the present application deserves consideration. Hence, the following order is

passed.

**:: ORDER ::**

- i)** This application is conditionally allowed.
- ii)** The interim custody of muddamal phone Vivo X 70 Pro having IMEI No. 868265058464959; which was seized by the police in connection with the offence registered with Morbi City A Division police station vide I - Crime Registration No. 1085/2024 for offences punishable under Sections 103(1), 115(2), and 54 of the Bharatiya Nyaya Sanhita, 2023, and Section 135 of the Gujarat Police Act, is directed to be handed over to the applicant on furnishing personal bond amount equal to **1.5 times** the value (as mentioned in the mudamal pavti/panchnama) of the muddamal with one surety of the like amount before the concerned police station, subject to following conditions:

**CONDITIONS:**

- a)** *The said muddamal mobile phone shall not be used to facilitate the commission of any crime in future and that the mobile handsets shall be produced before the Court as and when called upon.*
- b)** *The applicant shall not sell, transfer or alienate the mobile phone in any manner, pending the trial proceedings & without the prior permission of the court.*
- c)** *The investigation officer shall prepare a detailed panchnama of the device and also take photographs of*

*muddamal, from all the sides, and shall produce it before the Court.*

**d)** *Copy of this order be sent to the concerned Police Station for compliance of this order.*

Signed and Pronounced today in open Court on this 10<sup>th</sup> day of March, 2026.

Place :- Morbi

Date :- 10/03/2026

**(Mitalkumar Rasikbhai Nadpara)**

2<sup>nd</sup> Addl. Sessions Judge,

Morbi

Judge Code GJ00840

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