

**IN THE COURT OF THE III ADDL. SESSIONS JUDGE /  
SPECIAL JUDGE (SPE/CBI)-I, ERNAKULAM**

**Present: Sri. P.K. Mohandas, III Addl. Sessions Judge/  
Special Judge (SPE/CBI)-I, Ernakulam**

Thursday the 22<sup>nd</sup> day of May, 2025 / 1<sup>st</sup> Jaishta, 1947.

**Crl.M.P. No. 1567/2025**

**In**

**SC No. 1650/2024**

**Petitioner** : Abhi A, aged 24 years, S/o. G. Asokan,  
Thoppil, Pathirappally P.O, Alappuzha, Pin –  
688 521.

**Represented by Adv. M/s. John S. Ralf,  
Vishnu Chandran, Ralph R. John,  
Giridhar Krishna Kumar, Geethu T.A,  
Mary Greeshma, Liz Johny  
and Krishnapriya Sreekumar.**

**Respondent** : Central Bureau of Investigation, represented  
by Spl. Public Prosecutor, Sessions Court,  
Ernakulam.

**Smt. Ramya Prasad, Public Prosecutor,  
CBI, Ernakulam.**

This petition is coming on for hearing before me on 22.02.2025 and  
the Court on the same day passed the following:

**ORDER**

This claim petition filed u/s. 497 of BNSS, 2023, for releasing mobile  
phone.

2. The petitioner was initially arrayed as the 20<sup>th</sup> accused in the case.

But, he was not arrayed as an accused in the final report. At the time of his arrest, his mobile phone, Realme 7 Pro Mirror Blue Colour, Model No. RBS07211N, bearing IMEI Nos. 861504054220693 and 861504054220685, with 6GB RAM and 128GB ROM was seized by the police. As the petitioner is not an accused in the case and the phone was not used in the commission of the offence, there is no need of keeping it in the court custody. The phone contains all the contacts of the petitioner and he is the absolute owner of the device. Therefore, the petitioner seeks release of his mobile phone.

3. The investigating officer filed an objection opposing the petition. It is stated that as no sufficient evidence was found to prosecute the petitioner, he has not been charge-sheeted. The petitioner's mobile phone, which was seized during the investigation by the Kerala Police vide seizure memo dated 09.03.2024, cannot be released at this stage as it is an MO relied upon by the prosecution. The phone can be returned only after the conclusion of the trial.

4. I have heard the counsel appearing for the petitioner and the Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioner is the absolute owner of the property, which has no connection to the above crime. The petitioner is ready to abide by any conditions imposed while releasing the phone.

6. This petition is filed for releasing the mobile phone seized from the possession of the petitioner. The petitioner is neither an accused nor a witness in this case. Though he was initially made an accused, after investigation it was found that there is no evidence against him and he was not made an accused in the final report. The prosecution has no case that the mobile phone was directly involved in the commission of the offence in this case. The mobile phone was not sent for expert examination and the prosecution is not relying upon the contents of the mobile phone to prove any fact. Though it is produced as a material object, the prosecution has no case that the phone is necessary to prove any fact in the case. It is not disputed that the petitioner is the owner of the mobile phone. If the device is kept unused without charging, it may cause damage by lapse of time. In view of the decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai v. State of Gujarat* (AIR 2003 SC 638), there is no necessity of keeping seized articles in the custody of the court and the same is to be released to the person entitled to possess the same. In this case there is no other claim petition filed. Considering the facts of the case and other materials placed before me, I am inclined to release the device subject to following conditions.

Hence, the petition is allowed.

1. The mobile phone, Realme 7 Pro Mirror Blue Colour, Model No. RBS07211N, bearing IMEI Nos. 861504054220693 and

861504054220685, with 6GB RAM and 128GB ROM shall be released to the petitioner on his executing bond for Rs.50,000/- with one solvent surety for the like sum.

2. The petitioner shall not delete, alter, or tamper with any existing data in the mobile phone until completion of the trial.
3. The petitioner shall produce the mobile phone before the investigating officer or this Court as and when required during the course of investigation or trial.
4. The petitioner shall file an affidavit stating that he will comply with the above conditions.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 22<sup>nd</sup> day of May, 2025.

Sd/-  
P. K. Mohandas  
III Addl. Sessions Judge/  
Special Judge (SPE/CBI)-I

Appendix: Nil

Id/-  
III Addl. Sessions Judge/  
Special Judge (SPE/CBI)-I  
(By Order)

//True Copy//

Sd/-  
Sheristadar.