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**IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE II,
HOSDURG**

Present: Sri. Fayiz.T, Judicial First Class Magistrate-II, Hosdurg

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Dated this the 8th day of June, 2026

CMP: 2/2026 IN CC 197/2026

Petitioner/Accused No. : Shabeer Madambillath, aged 37 years
S/o Hameed Kujira, Madambillath House,
Padannakkadu, Kasaragod.
(By Adv.P Y Ajaykumar, Hosdurg)

Respondent/Complainant : The Sub Inspector of Police
Nileshwaram Police Station
Cr.No.641/25
(By Smt.Anjela Santhakumar APP, Hosdurg)

Application : U/s.497 of BNSS

ORDER

1. This is an application filed by the accused under Section 497 of the BNSS.

2. The averments in the petition, in brief, are as follows: The petitioner is the accused in the above case. The offences alleged against him are punishable under Section 79 of the BNS and Section 66C of the IT Act. The police seized his mobile phone (Iphone 12 Pro Max). The petitioner seeks release of the mobile phone. The petitioner submits that he is prepared to comply with any conditions that may be imposed by this Court.

3. The SHO, Nileshwaram Police Station, filed a report opposing the petition.

4. Heard both sides and perused the records.

5. The prosecution case, in brief, is as follows: With the intention of harming the reputation and dignity of CW1, the accused created a fake Instagram account using the name and photograph of CW1. Posing as CW1, the accused sent sexually coloured messages to several men through the said account and

demanded money from them, thereby causing humiliation and loss of reputation to CW1. Thus, the accused committed the offences punishable under Section 79 of the Bharatiya Nyaya Sanhita, 2023 and Section 66C of the Information Technology Act, 2000.

6. The petitioner is the accused in the above case. His mobile phone was seized by the police during the course of investigation. The learned counsel for the petitioner submitted that the petitioner is willing to abide by any conditions that may be imposed by this Court for granting interim custody of the mobile phone.

7. The learned Assistant Public Prosecutor opposed the petition, contending that the mobile phone was used for the commission of the offences alleged and that it contains material evidence relevant to the case. It was therefore submitted that the mobile phone may not be released to the petitioner at this stage.

8. It is seen that the mobile phone has already been forwarded to the DFSL for scientific examination and the same has not yet been received back. The prosecution allegation is that the said mobile phone was used for the commission of the offences alleged and that it constitutes a material object in the case. Since the mobile phone is not presently available before the Court and the report of the scientific examination has not yet been received, this Court is not inclined to grant interim custody of the mobile phone to the petitioner at this stage. Hence, this petition is liable to be dismissed.

In the result, the petition is dismissed.

(Dictated to C. A., transcribed by her, corrected and pronounced by me on this the 8th day of June, 2026)

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE-II,
HOSDURG

//True copy//

JUDICIAL FIRST CLASS MAGISTRATE-II,
HOSDURG