

MHAH010076932023



**Special Case No.304/2023  
Baban Murlidhar Bhor Vs.  
State of Maharashtra**

**ORDER BELOW EXH-73**

(Delivered on 19.06.2024)

- 1) This is an application by third persons under Section-457 of the Code of Criminal Procedure for return of the Mobile of OPPO Company of Yellow color F19S having IMEI No.861451052006577 which was seized in CR No.641/2023 for the offences punishable under section-395, 394, 364(A), 323, 341, 427, 504, 506, 34, 120(b), 325 of the Indian Penal Code, under Section-37/135 of the Bombay Police Act and under Section-3(1)(ii), 3(2), 3(4) of MCOCA Act.
- 2) The applicant submitted that, he is the owner of the mobile phone. He is not accused in the offence. The investigation is completed and charge-sheet is filed in the court. He is ready to abide by the terms and conditions as imposed by the court.
- 3) Below Exh-74 he submitted the mobile gallery bill in his name and his identity card /adhar card with his affidavit at Exh-75.
- 4) The Investigating Officer submitted reply Exh-82 that, the said mobile phone having IMEI No.XXXX6577 was seized from the accused Akash Shinde, who is the member of the gang ,which is engaged in organized crime. The said mobile phone was used in committing the crime. The offence is serious. The mobile phone was found with the member of the gang in organized crime syndicate and seized from the accused. It is possible that, if the mobile phone is handed over, it will be disposed off and will not be

available for the propose of trial. Hence, the application may be rejected.

5) The complainant appeared in this matter and strongly opposed the application by filing reply (Exh-85).

6) In the offence like MCOCA, the mobile phone is an important piece of evidence. The applicant could not submit anything, as to how it was found with the said accused Akash Shinde. There is every possibility of it being disposed off, if it is handed over to the owner, though he is not involved in the offence. It will be an obstacle during the trial, if the same is not produced. It will be an important piece of evidence to show that, how Akash Shinde was connected with other accused. It is an important link to show that, how he communicated with them and used the mobile phone for commission of the offence.

7) The most important part is that, the applicant has not brought any creditable and reasonable material to show that, he had innocently handed over the mobile phone to said accused. Even then being harmful to the trial and possibility of its destruction, the mobile phone cannot be handed over to the applicant. Hence, following order;

**ORDER**

1. The application Exh-73 is hereby rejected.

Date : 19.06.2024  
Place : Ahmednagar

( Niranjan R. Naikwade )  
Additional Sessions Judge,  
Ahmednagar JO Code-MH01063