

MHAU030102302026



Cri.M.A./1529/2026

Bhagwan Kuber

Vs.

State of Maharashtra

ORDER BELOW EXH.1

Read application and say by I.O. as well as a learned A.P.P. This is an application for returning the property seized during investigation in C.R. no.1/2026 by Cyber police station, Aurangabad.

02. The Ld. Advocate for applicant submitted that the applicant is the owner of mobile seized during the investigation for C.R. no.1/2026 of Cyber police station. The F.I.R. registered by one Mr. Padmakar Wankhede under section 318 (4), 336 (2), 336(3) of B.N.S. and under section 3,4,7 of Motor Vehicle Act and under section 43, 65, 66 (c), 72, 72(A) of I.T. Act, 2000. The mobile was seized during investigation on 23.04.2026. The applicant is a businessmen and being essential now days mobile phone which needs for banking as well as necessary daily livelihood. The mobile is a electronic device, if kept in a police custody then there could be battery damage or software obsolescence if kept unused. The applicant cooperated the investigation. The applicant will abide all orders and keep available his mobile phone when required for investigation. The applicant will not misused the phone, will not change the nature of the phone or will not change the physical appearance. The applicant is ready to give indemnity bond. So, considering the reasons Ld. Advocate for applicant submitted that application may kindly be allowed.

03. The Ld. A.P.P. and I.O. submitted that the information in C.R. No.1/2026 was given by Mr. Wankhede and it was submitted that the government web site utilize to issue driving license was misused illegally and forged documents were issued and prepared. All these was made by an electronic device. The main accused yet to be arrest. The mobile phone was used for misusing the government web site. The the web site was used illegally and by using the said portal illegally without any examination learning license were issued. This would have been done by the present mobile phone and there would have been a material chatting between the applicant and other accused which yet to be recovered. Further main accused yet to be arrested, after arresting this accused required to see the chatting in between present applicant and wanted accused. The same needs to be verifying by keeping both mobiles before the forensic expert. So, I.O. submitted that once the main accused arrested then the part of perusing the data in the mobile phones will start. At present if mobile phones release then this possibility is that accused may tamper the data or delete that data. So, I.O. and Ld. A.P.P. submitted that till recovery of mobile handset and main accused and comparing it with the mobile phones data of present applicant, this mobile could not be released. This would affect the investigation as well as in trial. The applicant would tamper the material data which were stored in the said mobiles. Hence, application not tenable and deserves to be reject.

04. The informant Mr. Wankhede being Assistant Inspector for Motor Vehicle R.T.O. Office, Aurangabad gave F.I.R. vide C.R. No.1/2026 to Cyber police station that they received information that without any examination some persons obtained learning license from making entry illegally in Sarthi portal and Wahan portal. The said licenses were issued without any examination and without any

particular O.T.P. The accused obtained password and also obtained the confidential information. The accused illegally prepared the receipts for payment. So, there was cheating to government as well as lost to the government. So, the R.T.O. officer gave F.I.R. and investigation starts.

05. The mobile phone was recovered from the present applicant but main accused yet to be arrested. It appears that for making entry in the portal of government i.e. Sarthi and Wahan for issuance of learning license without examination. But considering the submissions of Ld. A.P.P. it appears the mobile phone was used as material objects. So, it appears mobile phone was used as a electronic device to issue illegally learning license. There would have been some chatting in between accused and present applicant. There would have been some data stored in said mobiles. So, after arresting the main accused this needs to be verified. There would have been chatting in between present applicant and main accused. Once the mobile phone of main accused is recovered then the chatting can be compared between both mobile phones i.e. applicant and main accused. So, it appears that mobile phone is a material objects. Once it returned then possibility always that the data in the mobile would be deleted or transferred. This would cause damage to the case of prosecution. Further this mobiles may be used for same kind of offence. So, in such situation it is very difficult to accept that without mobile phone this applicant could not do the business. On 23.04.2026 mobile phone was seized and last three months mobile is with the custody of police but the accused did not suffer anything for want of mobile phone. So, considering the objection and reasons for objecting the mobile phone return the application not appears more just. So, at present without being arrest to main accused and for seizure of mobile of the main accused, the release or return of mobile

phone could not be done. So, this application is not tenable at this stage and this application appears to be pre-matured as investigation yet to be complete. Accordingly this application deserves to be rejected. Thus, I proceed to pass following order.

ORDER

The application is rejected.

Date : 29/07/2026

(R. S. Jambotkar)
Chief Judicial Magistrate
Aurangabad.