

ORDER BELOW EXH. 30

1. Accused No. 2 filed this application under Section 451 of Criminal Procedure Code.

2. She contended that prior to this application she moved an application for releasing the Sonography machine. Her application was allowed. She further contents that the probe bearing No. 3-80-100-0023-25 type trans to sir 3.5 MHZ 40R/128 power 29 MW S. No. 77/91 was seized by the appropriate authority and same is in the court. She further contents that the probe is one of the part of the Sonography machine and which is essential without it the machine is useless. She also contents that if the probe is not released then there will be difficulty for examining the patients and inconvenience will be caused to them. The probe is electronic part if it is kept lying for many days it will be useless and also chances of being not work in future. So she prayed to allow her application and release the probe which is seized.

3. Prosecution filed say contended that relating to the probe it is not mentioned in the panchnama whether that probe is a part of the machine or not that is to be asked to the appropriate authority. The proper person to state this is the appropriate authority. So he strongly objected to the application contending that to call the opinion of the expert before releasing the probe.

4. I heard Ld. Advocate for the applicant and APP for the

state.

5. I perused the charge sheet and the panchnama. In the panchnama relate to the probe it is not mentioned but along with the charge sheet the investigation officer had filed the acceptance receipt of dated 25/07/2014 from it appears that the probe is handing over by the appropriate authority in presence of the panchas. The probe is part of the Sonography machine and without that part the machine is useless. The machine is De-sealed in view of the order Exh. 25. The probe is a electronic part if it is been kept lying for long period it will spoil and will not work properly. There is no dispute that the probe was seized from the custody of the applicant. So the person from who's the possession was found that person is entitled for. So I am of the view that the probe to be released by imposing conditions and after getting the indemnity bond of Rs. 25,000/- from the applicant. Hence, I pass following order.

ORDER

1. Application is allowed.
2. Ad-interim custody of the probe bearing No. 3-80-100-0023-25 type trans to sir 3.5 MHZ 40R/128 power 29 MW S. No. 77/91 be hand over to the applicant after she execute the indemnity bond of Rs. 25,000/- in favour of the court on the conditions :-

- 1) That she will not use the said probe for commission of any offence which falls under PCPNDT Act.
 - 2) She will not dispute about the handing over of the probe to her.
 - 3) That she will not dispute relating to the probe which is hand over to her during the trial relating to identification.
3. Applicant to execute indemnity bond before court.
4. Hence, application disposed of accordingly.

Date : 06/01/2015
Place : Majalgaon.

(R. K. Gujjar)
Judicial Magistrate, F.C.,
Majalgaon, Dist. Beed.