

Order below Exh.33

(Passed on 19.06.2024)

By way of the present application applicant Waman Namdev Kukude is seeking interim custody of seized mobile phone of VIVO Y-30 bearing IMEI-No.867663044869219 and 867663044869201 with a contention that he is the owner of the mobile phone. It is contended that the applicant is not involved in the crime.

2. Prosecution has opposed the application. It is contended that the mobile is an incriminating evidence. It is contended that the SIM Card used by accused Labjyot Singh and the JCL were found in the seized mobile.

3. A short point that involved is whether the applicant is entitled for interim custody of the seized mobile phone.

4. At the outset, it must be pointed out that the mobile phone in question has been seized as an incriminating evidence. Prima facie it appears that there is possibility of incriminating data in the seized mobile. It also appears that there is possibility of misuse/tampering with the data contained in the seized mobile phone if the applicant is given interim custody of the seized mobile. It appears that the alleged offence is of a serious nature wherein the accused have been charge-sheeted for having committed offences punishable under sections 302, 307 and section 120-B of IPC. Considering the nature of the offence alleged against the accused, I find that he cannot be given interim custody of the seized mobile though he is not involved as an accused. It is not disputed that son of the present applicant Waman Kukude viz. Dadya @ Praful Kukude is one of the accused.

In view of this discussion, I find that it would not be just, proper and reasonable to give the seized mobile in interim custody of the applicant as sought for in this application. Accordingly the following order is passed:

Order

Application (Exh.33) stands rejected.

Date : 19.06.2024.

(Girish G. Bhalchandra)
Additional Sessions Judge,
Chandrapur.