

ORDER BELOW EXH-62

(Passed on 26th March, 2021)

1) The instant application is moved by the applicant named Kisan Rajaram Kaware under Section 451 of Criminal procedure Code for releasing mobile of Vivo V20 seized by Police station, Dawniwada, Dist. Gondia in crime no.234/20 (State Vs Ravishankar +14) for the offence punishable under sections 11(1)(d)(e)(f)(h) of Prevention of cruelty to the Animal Act and sections 5A and 9 of Maharashtra Preservation Animal Act. The applicant averred that, he is owner and possessor of the above mentioned mobile. The applicant requires the mobile for purpose of his daily routine work. He is ready to abide all the conditions imposed by this court in the event of release of said mobile in his favour. Hence, he prayed for release of mobile on supratnama.

2) The P.S.O. Dawaniwada filed say on the said application vide Exh-65 and learned APP on the present application vide Exh-62. They submitted that, the applicant have committed the present crime through this mobile and if the said mobile is released supratnama then there is the possibility that he shall sell and change its nature as well as use this mobile for committing same kind of offence.

3) Perused the application, say and record. Heard the Investigating Officer, learned APP and learned advocate for the applicant Shri. P.R. Bhandarkar. The present application is supported by the affidavit of the applicant. The applicant has filed on record the verified copy of invoice of seized mobile and verified copy of his Aadhar card along with list of documents at Exh-63 to show that the applicant is the registered owner of the same.

4) After Scrutinizing the documents on record, I have satisfied that, the applicant is the owner of the seized mobile. No purpose would be served in keeping the said seized mobile lying in the Police Station, Dawaniwada. Moreover, the possibility of the damage or deterioration of the property cannot be ruled out if the same be kept lying in the Police Station. Perusal of charge sheet prima-facie shows that it is nowhere mentioned that accused used this said mobile while committing the alleged offence. It is pertinent to note that interim custody cannot be denied to the applicant merely because applicant is accused in present case particularly when trial would not be concluded in near future. In view of the directions of the Hon'ble Supreme court in *Sundarabai Ambalal Desai Vs State of Gujrat, AIR 2003 SC 638*, the supratnama application is to be disposed of judiciously and expeditiously and on imposing certain conditions. Considering the aforesaid reasons, as the applicant has shown his ownership and possession over the seized mobile, he is entitled for the custody of the same. I do not find any reason to deny the applicant's prayer for releasing the said mobile. In the result, I pass following order;

ORDER

1. The application is allowed.
2. The applicant shall execute indemnity bond of Rs. 15,000/- (Fifteen Thousand rupees only) before Asst. Superintendent, Tirora. Thereafter Police Station officer, Dawaniwada is directed to hand over forthwith the interim custody of mobile of Vivo V20 seized in crime no.234/20 (State Vs Ravishankar +14) in favour of applicant. The applicant shall abide the following conditions.

- a. The applicant is directed that he shall not sell or transfer the seized mobile without the prior permission of this court till final disposal of case.
 - b. The applicant shall not change body and nature of mobile. He shall maintain and preserve the property in all respects.
 - c. The applicant shall produce the property for purpose of evidence in this court as and when directed, failing which the indemnity bond amount is forfeited.
 - d. The applicant shall not use the said mobile for committing similar or any kind of offence in near future.
3. The Investigating officer, P.S. Dawaniwada is directed to prepare a detailed panchnama of said mobile before handing over the custody to the applicant.
 4. The applicant is directed to take and produce the two self attested colour photographs of the said mobile from front side as well as back side. The applicant shall put signature on the back side of the photographs.
 5. Copy of this order be sent to the Police Station, Dawaniwada, Dist. Gondia for necessary compliance and thereafter report the same to this Court. Issue Hamdust in the name of Police Station, Dawaniwada, Dist. Gondia accordingly.

(D.K. SAHU)

Dated: 26/03/2021

J.M.F.C. (Court No.03), Tirora.

JMFC