

MHKO050007502026



Cri. M.A. No.47/2026

Prakash Gajanan Jere

*Versus*

State of Maharashtra

**ORDER BELOW EXH. 1**

This is an application under Sections 497 and 503 of BNSS for return of ONEPLUS 13R Mobile with IMEI No.867478075987339 (as specifically described in application) recovered during investigation in the case registered bearing CR No.25/2026 at Hupari Police Station for the offences punishable under Section 12 (a) of Maharashtra Gambling Act.

**02)** IO filed his say and strongly objected the application. It is stated that the applicant being accused in CR No.25/2026 was operating the above said mobile for the commission of an offence. It is further stated that if the mobile is returned, he may temper with the data available in the mobile and he may not produce the mobile during the trial. Hence, prayed that the application be rejected. Ld. APP filed his say and submitted that the the application may be allowed by imposing necessary conditions and after taking precautions to preserve the data available in the mobile.

**03)** The applicant has filed purchase receipt of seized mobile handset, photocopy of his aadhar card and FIR copy. Said copy of purchase receipt *prima facie* reveals that applicant is owner of said seized mobile handset.

**04)** In such circumstances, no purpose would be served in keeping said muddemal lying at police station till conclusion of trial, which will take its own time. Furthermore, the seized muddemal may

be returned after extracting necessary information from the mobile. Applicant has proved his identity by filing copy of his aadhar card.

05) The applicant has *prima-facie* shown his entitlement over seized muddemal. It is true that said muddemal will be required for the purpose of evidence during trial. However, preparing a panchnama and taking necessary photographs of said muddemal at the time of handing-over its interim possession to the applicant and by directing the applicant to produce said mobile as and when directed, will suffice the said purpose. In the given facts and circumstances, in my view, no prejudice will be caused to the prosecution, if the interim possession of seized mobile handset is handed-over to the applicant. Thus, considering the ratio laid down in the case of *Sundarbhai Ambalal Desai vs. State of Gujarat, reported in AIR 2003 SC 638*, I find no legal impediment in allowing this application. Hence, I hold that, applicant is entitled for the interim possession of said muddemal, subject to following conditions;

**ORDER**

- (i) The application is allowed.
- (ii) The interim possession of mobile handset of ONEPLUS 13R, IMEI No. 867478075987339 seized in crime No.25/2026 registered at Hupari Police Station, shall be handed-over to the applicant, till the conclusion of the trial, on the applicant executing indemnity bond of Rs.42,000/-, after extracting relevant/necessary data relating to the offence from the mobile.
- (iii) The applicant shall not sell or transfer said mobile

handset without the prior permission of the Court, nor should he change the nature of mobile handset in any manner till conclusion of trial.

- (iv) The applicant shall produce said mobile handset in the Court/Police Station as and when directed.
- (v) Investigating Officer in the said crime shall prepare Panchanama and take necessary photographs of said mobile handset, at the costs of applicant.
- (vi) **Investigating officer is directed to take necessary steps to extract relevant information from the seized muddemal.**
- (vii) Investigating Officer shall attach said Panchnama, photographs and indemnity bond (Supurtnama) with original case papers of this case.

Sd/-

Date : 25/03/2026.  
Place: Ichalkaranji.

**(M.S. Gawade)**  
**Judicial Magistrate F.C. (Court No.5),**  
**Ichalkaranji.**