

MHKO050029332026 	Cri. M.A. No.158/2026 Suraj Subhash Tiware <i>Versus</i> State of Maharashtra
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ORDER BELOW EXH. 1

This is an application under Sections 497 and 503 of BNSS for return of Vivo Y 51 A Mobile with IMEI No.863500058466777 (as specifically described in application) recovered during investigation in the case registered bearing CR No.135/2026 at Hupari Police Station for the offences punishable under Sections 12 (a) of the Maharashtra Gambling Act, 1887.

02) IO and Ld. APP filed their say and submitted that the the application may be allowed by imposing necessary conditions.

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. 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 Vivo Y 51 A Mobile with IMEI No.863500058466777 seized in crime No.135/2026 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.16,500/-.
- (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 : 20/07/2026.

Place: Ichalkaranji.

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