

MHKO130000662026



**State of Maharashtra Th. Murgud Police Station Vs. Avinash  
Pandurang Kanase**

**ORDER BELOW EXH. 235 IN R.C.C. NO. 01/2026**

1] Present application is filed by accused no. 23 Avinash Pandurang Kanase for return of muddemal property i.e. 'One Plus-Nord 5 8+256 Marble Sands' company mobile Model One plus Nord bearing I.M.E.I. No. 863995075895232/863995075895224, worth Rs. 32,000/- vide section 497 of Bhartiya Nagarik Surakasha Sanhita 2023.

2] Accordingly say of learned A.P.P. & Investigating Officer was called. Learned A.P.P. & Investigating Officer have filed their say and submitted their objection to hand over the custody of the seized property to applicant.

3] It is the case of applicant that said muddemal property i.e. 'One Plus-Nord 58+256 Marble Sands' company mobile Model One plus Nord bearing I.M.E.I. No. 863995075895232/863995075895224 is seized on 23/11/2025. On perusal of record, it appears that the alleged muddemal i.e. mobile handset had been seized by the Investigating Officer during investigation of the C.R.No. 361/2025 for the offences punishable under section 318(4), 62, 3(5) of the Bhartiya Nyaya Sanhita, 2023 r/w. Section 6 & 8 of the Maharashtra Prevention of Malpractices at Universities, Boards and other Specified Examinations Act, 1982 & Section 3, 4, 5, 6, 11 of the Maharashtra Competitive Examination (Prevention of

Malpractices) Act.

4] It is further submitted that the muddemal is seized by concerned police station and the same is kept idle in the police station. It is also submitted that applicant/accused is owner of said muddemal and applicant may suffer irreparable loss because of damage caused to the muddemal.

5] In support of his application, applicant has placed on record affidavit. Applicant has also submitted verified copies of his Aadhar Card & purchase receipt of the said muddemal property and he is ready to submit indemnity bond as may be required by the Court. Applicant has shown readiness to abide the terms and conditions laid down by the Court.

6] Heard the learned advocate for the applicant and learned A.P.P. for the State. Perused the application, say filed by the learned A.P.P. and I.O.

7] Perused the record of the case and document filed on record. On perusal of the record, it appears that, in the present offence investigation is completed and charge-sheet is filed on record. However, applicant has submitted the affidavit in support of application. Moreover, say of the I.O. reveals that the alleged muddemal is seized from the applicant/accused. More importantly, say of the I.O. does not specifically depicts that the alleged mobile phone contains any data with respect to the alleged offence. No any statement has been made by the I.O. with respect to the digital evidence stored in the alleged mobile phone.

8] Considering above mentioned aspects, it appears that, applicant has prima-facie prove his lawful possession, ownership and claim to the above mentioned seized muddemal. The said seized muddemal is not claimed by

anybody except the applicant. No purpose would be served in keeping the seized muddemal lying in the police station. The possibility of the damage of the property can not be ruled out if kept lying idle in the police station.

9] As the applicant has prima-facie shown his possession/lawful claim of the seized property, he is entitled for possession of the same. Therefore, applicant being owner of the said muddemal in question, the said may be released temporarily in his favour till the conclusion of trial, by imposing certain conditions. In view of the directions of the Hon'ble Supreme Court in the matter of *Sunderbhai Ambalal Desai V/s. State of Gujrat (A.I.R. 2003 Supreme Court 638)* and the aforesaid reasons, in the interest of justice, the application is deserved to be allowed. Hence, I proceed to pass the following order :-

#### **ORDER**

- 1] The application is allowed.
- 2] The seized property i.e. “One Plus-Nord 58+256 Marble Sands’ company mobile Model One plus Nord bearing I.M.E.I. No. 863995075895232/863995075895224”, which was seized by Murgud police station in C.R. No. 361/2025 be released temporarily till the conclusion of the trial in favour of applicant on furnishing indemnity bond of Rs. 45,000/- only (Forty Five Thousand only).
- 3] The P.S.O. Police Station, Murgud is directed to hand over said muddemal to the applicant/accused – Avinash Pandurang Kanase which is seized in the C.R. No. 361/2025.
- 4] The applicant shall produce the said muddemal, as and when directed by the court and he shall undertake that :

- i) he shall not change the nature of the said property;
- ii) he shall not alienate/sell the said property;
- iii) he shall maintain and preserve the property in all respects including the data contained in it.

5] Investigating Officer is directed to prepare the detail panchnama while handing over the said muddemal to the applicant and file panchnama accordingly.

6] Investigating Officer is directed to take photograph of the said article and submit it along with panchanama. Photographs of aforesaid article is attested/countersigned by the applicant to whom the custody is handed over.

7] Copy be forwarded to Murgud police station for information and necessary action.

8] Copy of this order along with all papers of panchnama, whenever filed before the Court shall be kept along with charge sheet.

9] The application is disposed of accordingly.

**Place : Kagal.**  
**Date : 29/04/2026**

**(Smt. P S. Patil)**  
**Judicial Magistrate First Class, Kagal.**