

MHLA090021002025



**ORDER BELOW EXH. 5 IN S.C.C. NO. 794 OF 2025**  
(The State Vs. Samad Jagirdar)

1. This is an application moved by accused viz. Samad Shamshoddin Jagirdar, vide provisions of section 497 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and thereby sought for interim custody of seized mobile handset on supurdanama.
2. The case put forth by the applicant, in brief, is that on the police have seized the claimed mobile handset on purpose and merely acting upon a suspicion. He has purchased the same from Neeta Mobile Shopee and Repairing Centre, Wadhawana Pati, Tal. Udgir, Dist. Latur. He is indeed in need of said mobile handset for his day to day work. He has undertaken that he is ready to abide by any conditions which the Court may be pleased to impose upon him. Ultimately he has sought for interim custody of said handset.
3. I have called out say of the learned APP and the investigating officer concerned. According to the investigating officer they have seized the claimed mobile handset from the seen of occurrence. The said property is an important piece of evidence. If it is released in favor of the applicant, possibility of he being not produce before the Court cannot be ruled out. Hence, prayed for appropriate order. The learned APP has also submitted in the same line and prayed for rejection of application.
4. In the above factual matrix, at the very outset I have taken up the seizure panchnama for consideration. Perusal of panchnama dated 02.05.2025 reveals that the investigating officer has seized the claimed mobile handset at the instance of the instant applicant. Further it is seen that along with the instant mobile handset cash amount of Rs.3290/- also came to be seized at his instance.
5. Considering the application, says filed thereon and final report, it

reveals that the claimed mobile handset came to be seized at the instance of the instant applicant in respect of commission of offence punishable under section 12(a) of the Maharashtra Gambling Act in Crime No.123/2025 registered with Police Station, Wadhawana. The says filed by the investigating officer and the learned APP are general in nature. Though they have expressed that once the claimed property is released, the applicant will not produce it during the trial, still its care may be taken by imposing appropriate conditions.

6. The applicant to fortify his ownership has placed on record a purchase invoice. Perusal of the same reveals that the applicant has purchased the claimed mobile handset on 26.12.2023. The applicant has adduced on record a copy of his Aadhaar Card to established his identity as well. Further except the instant applicant none appeared before the Court claiming custody of the seized mobile handset. Thus, from the materials on record, the applicant appears to be the only person legally entitled for the interim custody of the seized property. The applicant is ready to abide by the conditions which may be imposed while allowing the present application. Thus, in view of the guidelines issued by the Hon'ble Supreme Court in the case of **Sundarbhai Ambalal Desai Vs. The State of Gujarat AIR 2003 SC 638**, the seized property can be returned to the proper claimant after taking appropriate bond and the guarantee for the return of the same, if required by the Court at any point of time.

7. Considering the provisions encapsulated under section 497 of the Sanhita it is fairly settled that "It is of no use to keep such articles in police custody for years till the trial is over. The powers under Section 497 of the Sanhita must be exercised expeditiously and judiciously for interim custody of such property."

8. In the instant case, the seized property and claimed property are one and the same. The same depicts from the seizure panchnama as well. Further it is seized at the instance of the instant applicant. In such circumstances, I hold that keeping the seized mobile in Judicial or police custody for extended periods serves no practical purpose. Thus, the property herein may be given in interim custody of the applicant by imposing some

appropriate conditions. The object of the trial is to determine the truth of the allegation, and the mere custody of mobile handset is not essential when photographs and seizure panchanama are already on record. With these reasons, I find no hesitation to grant interim custody in favour of the applicant on certain conditions. Hence, the following order :

**ORDER**

1. The application is allowed.
2. The Incharge of Police Station, Police Station Wadhawana, Tal. Udgir, Dist. Latur is hereby directed to hand over the interim custody of seized mobile handset worth Rs.15,000/-, which came to be seized in Crime No.123/2025 registered with Police Station, Wadhawana, to applicant viz. Samad Shamshoddin Jagirdar, R/o. Wadhawana, Tal. Udgir, Dist. Latur on his executing supurdanama bond *in toto* of Rs.15,000/- and indemnity bond in the like sum in the Court on the following conditions :
  - a) The applicant shall produce the value of the seized property as and when required by the Court and the investigation officer ; and
  - b) The applicant shall furnish an undertaking stating that the released mobile handset shall remain available in the Court during the trial and that any misuse of the same shall lead to immediate legal consequence.
3. The Investigating Officer shall take high resolution photographs of the mobile handset and other relevant particulars, and retain a copy of the panchanama for record and to file all these proceeding in the Court.
4. The investigating officer shall sign and get the panchnama signed by the applicant and two independent witnesses before being placed on record.
5. This order shall not affect the merits of the case pending trial.
6. After compliance by the applicant, release order be issued.

Date : 28.08.2025.

(Bhalchandra R. Zende)  
J.M.F.C., (Court No.3)  
Udgir.