


MHLA160001112026 	<u>Cri.M.A. No.07/2026</u> <u>Arjun Vs. State</u>
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::: ORDER BELOW EXH.1 :::

This is an application for returning seized Mobile Model MOTO-G.85 69 bearing IMEI No.356977851850437 and 356977851850445.

2. The applicant contending that, He owned that mobile, which was seized in crime No.335/2025 for offence punishable under section 65 (e) of Maharashtra Prohibition Act, registered with Sub Inspector State Excise Department, Nilanga-2. That mobile is useful to her. He is law abiding person and ready to abide conditions, which court deemed fit. He prayed to grant interim custody of that mobile.

3. The non-applicant i.e. investigating officer failed to file say inspite service of show cause notice on 04/03/2026. Learned APP has opposed this application and submitted to impose conditions if granted interim custody of the mobile.

4. Ld. advocate Shri. M.B. Biradar for applicant and Ld. APP Hashmi argued at length. I have carefully perused the available record and argument. The seizure of aforesaid mobile in alleged offence is admitted position. The Ld. APP has not objected applicant's ownership over the said mobile. The documents i.e., copy of bill and affidavit, filed below list (Exh.3) have supported to the ownership over the said mobile. Accordingly, legal custody and authority to possess the mobile

are duly established in favour of the applicant. The merits of case should not be considered while granting interim custody of mobile. There is no confiscation proceeding. The respondent has confiscated that mobile.

5. In the judgment in **Sunderbhai A Desai V/s. State of Gujarath, reported in 2002 (1) SCC 283**, the Hon'ble Apex Court has issued broad guidelines in respect of return of seized muddemal vehicle, as the owner of the article would not suffer loss and the Court or the police would not be required to keep the article in safe custody.

6. In the light of above observations, it is important to note here that the applicant is registered owner of seized mobile. He is rightful claimant. It is also important to note here that, it is improper to keep seized mobile in the possession of the police station. If the seized mobile remained in the possession of police, it will cause rust and become useless. There is every possibility to cause damage to it and great hardship and irreparable loss to the mobile. Hence, I proceed to pass the following order.

-:: ORDER ::-

- 1) The application is allowed in the interest of justice.
- 2) Interim custody of the mobile MOTO-G.85 69 bearing IMEI No.356977851850437 and 356977851850445 seized in Crime No.335/2025 be returned to the applicant on furnishing supurtnama/indemnity bond"

of Rs.8,000/- (Rupees Eight Thousand only).

- 3) The applicant shall not change nature of that mobile or dispose it by any manner till final disposal of alleged crime.
- 4) The applicant shall produce said mobile as and when ordered by this Court, or any other Court or competent authority in connection with the offence.
- 5) The applicant shall produce 2 photographs of both sides of the said mobile with signatures at his cost.
- 6) The respondent is directed to return that mobile to the applicant and prepare its panchnama and filed the same with final report.
- 7) Order dictated on computer and pronounced in open court.

Date : 24/03/2026.

(S.A. Surjuse)
Judicial Magistrate First Class,
Deoni.