

**ORDER BELOW EXH.9**

(Passed on dated 22<sup>nd</sup> November, 2017)

1] *This is an application filed by applicant under section 457 of Code of Criminal Procedure for releasing Two Mobile Handsets i.e. Samsung Tab-3, IMEI No.352423060295456/01 and Sony EX-C, IMEI No.356534055298895 which is seized by Forest Officials, Katol in pursuance of Forest Crime No.29/6 for offences punishable under section 39, 40, 44, 49, 51 and 57 of Wild Life Protection Act,1972 hereinafter referred as seized mobiles.*

2] *It is contended that, applicant is owner of the seized mobiles. The investigation in respect of crime already been completed. There is no need of detentions of the mobiles for investigation. As the mobiles are under seizure, the daily routine work of applicant is affected. The mobiles are under the risk of being damaged. Applicant abide by the conditions imposed by the court. As such he prayed for release of the mobiles.*

3] *Complainant filed his say, wherein he submitted that, the seized mobiles are no more required to him for any purpose. He urged for passing appropriate order.*

4] *Perused application and say on it. Heard learned counsel for applicant and learned counsel for complainant at length.*

5] *The applicant came with invoice bill of the seized mobiles which reveals that, he is owner of the said mobiles. Apart from this, applicant filed his Aadhar identification proof to establish his identity. Application supported*

by affidavit.

The applicant place on reliance upon Judgment passed by Hon'ble Madhya Pradesh High Court in **Jahagir Khan Vs. State of Madhya Pradesh** reported in **1988 Cri.L.J.1889**. In the above referred authority Hon'ble lordship observed that, Magistrate is empowered to release the seized property under section 50 of Wild Life Protection Act, 1972. Magistrate passing orders directing seized article to be given to registered owner for interim custody on bond. Magistrate has jurisdiction to pass orders even though cognizance on complaint is not taken.

In the case in hand mobiles came to be seized under section 50 of Wild Life Protection Act, 1972. The cognizance is already been taken by the court. The applicant filed documents showing his ownership thereon. The mobiles are under seizure since 23/07/2015, its further detention will certainly cause risk of deterioration. Moreover, complainant himself has no hesitation to handover to interim custody of the mobiles to applicant. The investigation is over and matter is posted for recording evidences. As such no purpose will be serve by detaining said mobiles. Considering the above aspects in totality it will just and proper to release the seized mobiles in the interim custody of the applicant upon certain conditions. Hence, following order.

**ORDER**

- 1] Application is allowed.
- 2] The seized shall be released on Two Mobile Handsets i.e. Samsung Tab-3, IMEI No.352423060295456/01 and Sony EX-C, IMEI No.356534055298895 furnishing

security bond of Rs.30,000/-.

- 3] *The applicant shall not tamper with naturality of the said mobiles.*
- 4] *The applicant shall not sale or transfer the above said mobiles in any manner till disposal off the trial arising out of Forest Crime No.29/6.*
- 5] *The applicant shall produced the said mobiles as and when required by this court.*
- 6] *I.O. is at liberty to collect the data if any available in the mobiles concerning with commission of crime.*
- 7] *The investigation officer is directed to prepare the detailed panchanama and to take necessary photograph of the above said mobiles.*

Dated : 22.11.2017.

**( Anup R. Abhyankar )**  
Judicial Magistrate, First Class,  
**K A T O L.**

S.S.C. No.174/2016

Anand ..vs.. Range Forest Officer, Katol

**CERTIFICATE**

*I affirm that the contents of order are word to word as per original order.*

*C.D.Gahukar  
Stenographer(Lr.Gr.)*