

MHNG160006552024



ORDER BELOW EXH. 2
(Date 08.05.2024)

1] **Mr. Mohammad Tanweer Shaikh Saleem** has filed the present application under section 457 of the Criminal Procedure Code for interim custody of Realme C55(8/128) Mobile IMEI No. 860229066589957/860229066589940 seized in crime No. 228/2024 of P. S. Mouda (hereinafter referred to as the 'seized mobile').

2] Ld Advocate for the applicant submitted that the applicant was true and absolute owner of the seized mobile. The said mobile was seized by the police from the accused during investigation of Crime No. 228/2024. She further submitted that the applicant was nowhere concerned with the commission of the offence. He required the said mobile for his daily activities. Hence, she prayed that the application be allowed.

3] The Learned APP contended that the seized mobile was the part and parcel of evidence. If the said mobile was released, there was no possibility of it being produced at the time of trial. He further submitted that the applicant had not filed necessary documents to prove his title over the seized mobile. Hence, he prayed for rejection of the application.

4] Perused the documents submitted along with the application i.e. verified copy of Bill of Mobile (Exh.4/1) and verified copy of Aadhar Card of applicant (Exh.4/2).

5] Perusal of the record reveals that at this stage, except the applicant, nobody has claimed custody of the seized Mobile. Moreover, considering the documents filed by the applicant as well as the say of Ld. APP for the State, prima facie the claim of the applicant appears to be genuine. Moreover, the seized Mobile is susceptible to damage if kept lying at the police station. Therefore, no prejudice is going to be caused to either side if interim custody of the seized mobile is given to the applicant upon imposing appropriate conditions. Hence, I pass the following order :-

-: O R D E R :-

1. The application is allowed.
2. The seized mobile i.e. Realme C55(8/128) Mobile IMEI No. 860229066589957/860229066589940 seized in crime No. 228/2024 of P. S. Mouda be returned to the applicant till conclusion of trial on executing the indemnity bond of Rs.50,000/- (Rs. Fifty Thousand only).
3. The applicant is directed not to change, sale, transfer or dispose off the seized mobile till the conclusion of trial in CR. No. 228/2024.
4. The applicant is directed not to create any third party interest in seized mobile till conclusion of trial in C.R. No. 228/2024.
5. The applicant shall produce the seized mobile as and when directed by the Court.
6. The Investigating Officer is directed to take coloured photograph of seized mobile at the cost of applicant.

7. The Investigating Officer is directed to prepare detailed panchanama of seized mobile before handing over it to the applicant.
8. The Investigating Officer is directed to return the seized mobile to the applicant after proper verification.
9. Issue letter to Mouda Police Station accordingly.

Place : Mouda.
Date : 08.05.2024

(A.B. Kadian)
Judicial Magistrate, First Class,
Mouda