

SESSIONS CASE NO. 96 OF 2023

The State of Maharashtra

Vs.

Sadik Yusuf Patel and others

Sunil Yeshwant Chaure .. Applicant

ORDER BELOW EXH. 57

[1] Applicant – **Sunil Yeshwant Chaure** has filed this application for return of property i.e. Mobile Handset of Oppo Reno – 6 PRO Company (**IMEI - 868066054511599**) (for short 'the Mobile') under Section **451** of the Code of Criminal Procedure.

[2] The said mobile has been seized in the matter of Sessions Case No. 96 of 2019 wherein charge-sheet is filed under section 394, 395 read with section 34 of the Indian Penal Code and under section 120-B of the IPC.

[3] It is submitted by the applicant that during the investigation, the Investigating Officer seized the said **Mobile** from the possession of accused – **Lalit Abhiman Gangurde**, in this case. Applicant is the registered owner of the said Mobile. He has no concerned with the present crime.

[4] The applicant has further submitted that the said Mobile is lying in the custody of police station unattended. Therefore, the said mobile and its battery may get damage. The said **Mobile** is necessary for the applicant for his day to day work. It will take much time to decide the present case. Therefore, he lastly prayed that the **said Mobile** may be given to him on interim custody. In support of his contention, the applicant has produced on record verified copy of the Bill which shows that he purchased the said Mobile phone from one Sadguru Mobiles on 06.12.2021 for Rs.35,000/-.

[5] Accused - **Lalit Abhiman Gangurde**, has filed his reply on the application itself. He has no objection to return the said Mobile in the custody of the applicant.

[6] The Investigating Officer and the learned APP have filed their SAY to this application. They have submitted that nature of the offence is serious. The said mobile is seized from the possession of accused - **Lalit Abhiman Gangurde**. If the Mobile is returned to the custody of the applicant, he would alienate the same. On these grounds, he prayed for rejection of the application.

[7] It is well settled that properties like mobile phone seized during the investigation and kept unattended in the police station shall be returned to the person entitled on certain terms and conditions on interim custody as early as possible, otherwise such unattended properties may get damaged.

[8] In this matter, the investigation is completed and the charge-sheet is filed. The applicant has produced on record verified copy of the Bill of the said Mobile phone. The learned APP resisted the application on the ground that if the Mobile phone is returned to the custody of the applicant, he would alienate the same. However, I am of the opinion that by imposing certain terms and conditions, the applicant can be restrained from alienating the said Mobile phone, in any manner. However, fact remains is that the Mobile Phone is lying in the custody of the Police Station unattended and getting damaged day by day. Therefore, I am of the opinion that the Mobile phone can be given to the interim custody of the applicant on certain terms and conditions.

[9] Having regard to the above mentioned facts and circumstances of the case, I have no hesitation to return the Mobile phone to the applicant on certain terms and conditions. I, therefore, pass the following order.

ORDER

- (1) Application (Exh.57) is allowed.
- (2) The Investigating Officer or Incharge of Wadner Khakurdi Police Station, Tal. Malegaon, shall hand over the Mobile Handset of Oppo Reno – 6 PRO Company (**IMEI - 868066054511599**) to the interim custody of the applicant on executing Supuratnama of Rs.35,000/- (Rs. Thirty Five Thousand only).
- (3) The applicant shall not alienate the said Mobile Handset of Oppo Reno – 6 PRO Company, in any manner, without prior permission of this Court.
- (4) The applicant shall produce the said Mobile Handset before the Court as and when required.
- (5) After compliance of this order, the concerned Investigating Officer or Incharge of Wadner Khakurdi Police Station, Tal. Malegaon, shall submit before this Court, the compliance report along-with Supuratnama so executed by the applicant.
- (6) Issue letter accordingly to the concerned Police Station.

Date : 09.05.2024

(S. B. Bahalkar)
Additional Sessions Judge,
Malegaon.