

**ORDER BELOW EXH.7****IN R.C.C.No.103/2025****(MHPU-07-005546-2025)**

This is an application filed under Section 497 of B.N.S.S., to receive interim custody of mobile i.e. REDMI Company Note-13 model, Black color bearing IMEI No. 866083060888988 (hereinafter called "**Muddemal**" for sake of convenience) which is seized by Inquiry Officer in Crime bearing No. 2484/2025 registered with R.P.F., Pune for the offence punishable under Section 143 of Railways Act, 1989. Say of Ld. PP and Inquiry Officer was called. Ld. PP has filed his overleaf of the application. Inquiry Officer has filed his say below **Exh. 18**. Both of them have objected the application on various grounds.

2. It is submitted by the applicant namely **Tarif Rahaman Shaikh** that, he is the owner of seized property and said property is required to him for his routine work. To support his contentions, he has filed on record copy of his Aadhar Card and copy of bill of muddemal. He has also filed supporting affidavit below **Exh.7A**.

3. I have perused the application, documents and say. Heard both sides. According to Ld. PP, application is filed by applicant U/Sec.497 of B.N.S.S. which is not applicable as seized property has not been produced before the Hon'ble Court and the production of seized property is mandatory. Thus, prayed to reject the application. Inquiry Officer has submitted that, if alleged muddemal is returned to the applicant he may use said property for commission of similar



crime. Hence, prayed to pass appropriate order.

4. Sec.497 of B.N.S.S. provides that, during course of investigation, inquiry or trial the Court, or the Magistrate may make such order as it thinks fit for the property custody of such property pending the conclusion of the investigation, inquiry or trial. In the case in hand muddemal is in the custody of R.P.F., Pune Station. It has come on record that, seizure panchanama is executed by Inquiry Officer and alleged muddemal is seized from the custody of applicant.

5. Hon'ble Karnataka High Court in **Vishal Ramesh Khatwani Vs. State of Karnataka (CRL, RP No. 210/2024)** case have issued guidelines regarding seized electronic gadgets such as mobile phones, laptops and smart watches. Keeping in mind those guidelines present application has to be decided.

5. In the case in hand, evidence of complainant is over. Case is pending for evidence of other prosecution witnesses. It appears from seizure panchanama that, property is seized on 01/05/2025. Since then, it is kept with R.P.F., Pune Station. Therefore, it would not be just and proper to keep alleged property with R.P.F., Pune Station as electronic items may get damaged and their condition may get worst. In order to secure presence of alleged property before the Court, present application can be allowed by imposing appropriate terms and conditions on the applicant.

6. Importantly, documents shows that, applicant is the owner



and person entitled to receive possession of the said seized property as contemplated under Sec. 497 of B.N.S.S. Till today no person except the present applicant has made an application for return of seized property. Considering the nature of offence, alleged seized property can be given in the interim custody of the applicant by imposing necessary conditions for the purpose of trial. Hence, I pass the following order -

ORDER

1. Application is allowed on following conditions-
2. The seized property mobile i.e. REDMI company, Note-13 model, Black color bearing IMEI No. 866083060888988 be given in the interim custody of applicant namely **Tarif Rahaman Shaikh** on execution of Indemnity Bond of Rs.**20,000/-**.
3. The applicant is directed **not** to sell, mortgage, dispose, alienate or alter the nature of seized property in any manner, without permission of this Court till the conclusion of trial.
4. The applicant is directed to produce the said muddemal as and when required by the Court during trial, without fail.
5. Before releasing the said muddemal/property, its photographs be taken from all sides and that be countersigned by the applicant, I.O. and panch witness, at the cost of the applicant.



6. Concern Clerk to issue letter to the R.P.F., Pune Police Station on execution of indemnity bond by the applicant.

Pune
Date :11/09/2025

(N.J.Chavan)
Judicial Magistrate First Class,
Railway Court, Pune.