

MHPU180004822026



Cr. M.A. No.52/2026
Vijay Zagade
Vs.
State Excise
Department

ORDER BELOW EXH.1.
(Passed On 17/03/2026)

This application is filed u/s 503 of BNSS for handing over custody of mobile handset of Apple Company model I phone 15(256 GB) blue having IMEI no. 357992877192150 of applicant is seized by the Excise Department, Daund, Dist. Pune, in connection with C.R. No. 11/2026 registered for the offence punishable under Section 65(a), (d), (e), (f), 80, 81, 83, 90, 103 of the Maharashtra Prohibition Act and Section 123 of B.N.S.

2. I.O. and Ld. A.P.P. filed their say respectively. They have raised objection to handover the said vehicle to the applicant.

3. Heard both the parties. Perused the application, say and record. I have relied on case law of **Hon'ble Apex Court in the case of Sundarbhai Ambalal Desai Vs. State of Gujarat Reported in AIR 2003 (SC) 638.** The applicants have produced ownership document of the said bills of mobiles and Adhar Card. The bills of mobiles also reflected that, applicant is the owner of the said mobiles. Considering the nature of offence no purpose will serve by keeping the muddemal at Excise Department, Daund, the possibility of damaging the mobiles can not be ruled out. Moreover, the applicant has filed an affidavit stating that, as on 16/03/2026, the charge sheet has not been filed. Upon perusal of the report submitted by the Investigating Officer, it appears that the muddemal does not constitute material article in the present case, which is required for further investigation. The objection raised by the I.O are not sustainable at this stage. In my opinion, the application is

deserves to be allowed and interim custody of mobile be handed over to the applicants. I pass the following order.

ORDER

1. The application is allowed.
2. The interim custody of Mobile handset of Apple company model I phone 15(256 GB) blue having IMEI no. 357992877192150 to the applicant Vijay Zagade. He shall execute indemnity bond (Suprutnama) of Rs.90,000/-. Which is seized by the Excise Department, Daund, Dist. Pune, in connection with C.R. No. 11/2026 Excise Department, Daund shall be handed over to the to the above mentioned applicant after extracting any material evidence which is necessary for the investigation. The interim custody of the mobiles is on following conditions.
 - a) The applicants shall not transfer the said vehicles and mobiles or create third party interest in the vehicles and mobiles or changing the nature of vehicles and mobiles.
 - b) The applicants shall not used the said vehicles and mobiles in any criminal activity and produce the vehicles and mobiles as and when required to the investigation machinery or Court.
 - c) Investigating Officer shall prepare Panchnama and take necessary photographs of said Muddemal at the time handing-over its possession to the applicants on Suprutnama.
 - d) The applicants shall not use the vehicles on road without insurance.
3. Investigating Officer shall attach said Panchnama, photographs and indemnity bond (Suprutnama) and its copies with original case papers of the said crime No. 11/2026.

(A. S. Shaikh)

Judicial Magistrate First Class,
(Court No.4) Daund.

Date : 17/03/2026.

CERTIFICATE

I affirm that the contents of this P.D.F file, Order are same, word to word, as per the original order.

Name of the Steno :- Deepak A. Merukar, Grade-3
Court / Panel :- A. S. Shaikh
4th Jt. C.J.J.D. & Judicial Magistrate
First Class (Court No. 4) Daund.
Order / Judgment date :- 17/03/2026.
Order / Judgment singed by :- 17/03/2026.
the Presiding Officer on
Order/ Judgment uploaded on :- 17/03/2026.