

CNR No. MHSI01-000535-2025



ORDER BELOW EXH. 38 IN SESSIONS CASE NO. 39/2025

1. The applicant namely Smt. Dakshata Ramchandra Surve has filed application return of Muddemal property under Section 497 of B.N.S.S 2023. To this application, the A.P.P and investigation officer have filed the say at Exh.43 and 42 respectively and opposed the application. Heard the Ld. Adv. On the both sides. Gone through the available documents on records.

2. In brief, it is the contention of applicant in the application that, she is not the accused in the case. During the investigation I.O. has seized the Mobile belong to the applicant. She is a owner and lawful possession of the said Mobile. The said Mobile is her personal Mobile. The said mobile is Samusung Galexy S-24 Ultra, purchased from S.S. Private Ltd. Sawantwadi. The retention of Mobile with the Police is not necessary for the purpose of trial and evidence. Applicant is facing undue hardship due to the non availability of Mobile which contents personal information, banking and identity linked services. Therefore, applicant is lawful owner and possession of the Mobile. Hence, she undertake to produced the Mobile, as and when directed by the Court and comply the necessary conditions imposed by the Court. Hence, she prayed for return of the Mobile.

3. In response to this application, the investigation officer and A.P.P. has filed the say at Exh. 42 and 43 respectively. The say of both are same and identical, therefore, I propose to take same in common in order to avoid the repetition. Both have objected the application on the grounds that the said Mobile is produced by applicant during the investigation and same are seized by the panchanama. During the investigation, it is revealed that, there was Whatsapp calling and chatting with the deceased Akshay. Therefore, if the seized Mobile is returned to the applicant, then there is a possibility to delete the data in said Mobile. It is also further apprehended by them that, said Mobile may be used such kind of crime and the applicant will not be produced in the Court or Police station and there is a possibility of change in Mobile. Therefore, the application may be rejected.

4. After considering the contention of applicant, it is not a disputed that the said Mobile belongs to the applicant and same is seized by seizure panchanama by the Police. As per the contention of both side, the prosecution failed to demonstrate that, there is any chat or Whatsapp calling in regards to the Mobile of applicant. On this backgrounds, as per the direction of Hon'ble Supreme Court and our High Court, the application return of muddemal should be decide expeditiously. On this background if the Mobile is kept with the Police, then, there will be prejudice cause to the applicant. Thus, under such conditions, the applicant is entitled for return of the said Mobile. In view of above discussion, this Court proceed to pass the following order:-

: ORDER :

1. The application is hereby allowed.
2. In connection with Sawantwadi Police Station, Crime Registration No. 0171/2024, under Sections 108, 115(2), and 3(5) of the Bharatiya Nyaya Sanhita, the seized mobile phone Samsung Galaxy S24 Ultra (IMEI No. 352722660593008) owned by the applicant, shall be returned to the applicant, Smt. Dakshata Ramchandra Surve (Resident of Chitarali, Taluka Sawantwadi, District Sindhudurg), upon the execution of a bond in the amount of ₹20,000/- (Rupees Twenty Thousand Only), subject to the following conditions:
 - a) The applicant shall not transfer or alienate the mobile phone to anyone, nor alter it in any manner, nor modify its original form until the final verdict in the trial related to the said crime is delivered.
 - b) The applicant shall produce it before the concerned officer or the Court, as and when required and shall not make change in mobile or format till the conclusion of trial.
 - c) The applicant shall not use the mobile phone in the commission of any crime.
 - d) At the time of handing over custody of the mobile phone to the applicant, the Investigating Officer shall take photographs of the mobile phone along with the applicant, at the applicant's expense. Furthermore, the Investigating Officer

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shall draw up a detailed Panchnama regarding this handover and submit in the Court.

3. The bond shall remain subject to the final order passed in the case.
4. A copy of this order shall be forwarded to the concerned Police Station.

Date:- 14/05/2026

(S. S. Indalkar)
Adhoc District Judge – 1 and
Additional Sessions Judge,
Sindhudurg-Oros.