

MHST190003022026 	Presented on: 29.05.2026 Registered on: 04.06.2026 Decided on : 08.07.2026 Duration: Ys. Ms. Ds. 00 01 09
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IN THE COURT OF ADDITIONAL SESSIONS JUDGE AT WAI
(Presided over by B. D. Kadam)

Criminal Revision Appln. No. 10/2026

Exh.No.

Wilson Zuje Fernandes
Age: Adult, Occu. Business
R/o. Devbaug, Tal.Malwan,
Dist. Sindhudurg.



APPLICANT

.. Versus..

The State of Maharashtra
Through Mahabaleshwar Forest
Office, Tq.Mahabaleshwar,
District: Satara.



OPPONENT

Appearances:

Shri S.R.Mundhekar, Advocate for Revision-Applicant,
Shri D.S.Patil, Addl. Public Prosecutor for Respondent/State.

Application U/s.438 of the BNSS, 2023

J U D G M E N T

(Delivered on : 08.07.2026)

Being aggrieved by the order passed by the Ld. Judicial Magistrate First Class, Mahabaleshwar in Criminal Misc. Application No.8/2026 dated 08.05.2026, revisional-applicant has preferred this revision.

2] It is submitted that, Forest Crime No.1/2026 has been registered by Forest Office, Mahabaleshwar against the present applicant for the offences punishable under Sections 2, 9, 39, 44, 48A and 51 under the Wildlife Protection Act. During investigation, the Investigating Officer seized mobile of applicant having Model VIVO Y21 64GB Diamond glow bearing IMEI No. 866008058243110 and it is lying as it is with the Forest Office, Mahabaleshwar. Applicant had filed Criminal Misc.Appln.No. 8/2026 and sought the temporary custody of mobile, but Ld. Magistrate by impugned order dated 08.05.2026, rejected the application. In fact, applicant has not committed any offence. He is required his mobile phone for daily use. If it is not released, then its battery and internal parts will be damaged. He is ready to produce mobile phone as and when ordered, still his prayer was rejected and therefore, he prayed to allow the revision and set aside the order of Ld.Magistrate. Hence, this revision application.

3] Ld. APP submitted that the offence is serious in nature

and applicant used the mobile phone in the commission of offence. The prohibited wild life substance was found in his possession, of which investigation is going on. If mobile phone is released, again it will be used for the commission of identical offences and therefore, Ld.APP prayed to reject the application.

4] Considering the rival submissions, following points arise for my determination and my findings recorded thereon are as under :

Sr. No.	POINTS	FINDINGS
1.	Whether there is need of interference in : the order passed by Ld. J.M.F.C. dated 08.05.2026 ?	Yes.
2.	What order ?	: Revision is allowed.

REASONS

AS TO POINT NOS.1 AND 2 :

5] By this revision, applicant has challenged the order of rejection of his prayer of temporary custody in respect of mobile phone. On perusal of order dated 08.05.2026, Ld. Magistrate has observed that, merely the accused is released on bail, no automatic right accrues in favour of applicant for return of property. No doubt, merely on the ground that accused is released on bail, he has no right to claim the property. But considering the nature of

the property, it is electronic article and if lying as it is, definitely its internal parts and battery etc. will be damaged.

6] Ld. Magistrate has further observed in the order that the Aadhar Card and other documents are not produced. But in the revision, applicant along-with list Exh.6 has produced the verified copy of his Aadhar Card. Moreover, along-with list Exh.9, he has produced the original bill of mobile phone, which discloses that he is owner of the mobile phone. Ld. Magistrate has further observed in the order that the investigation is going on. But on perusal of date of the impugned order, it is passed on 08.05.2026. Now, near about two months have been lapsed and investigation would have been almost completed. Ld. Magistrate has further held that, possibility of tampering the electronic evidence cannot be ruled out. But that can be restricted by imposing strict conditions. Moreover, applicant by filing pursis Exh.7 submitted that, he has not received any notice of confiscation of seized property. Thereafter, ample opportunity was given to A.P.P. to file documents regarding confiscation. It clearly shows that till date, no confiscation process is initiated. Considering all above discussed facts, no need to keep pending the seized article with the Forest Department. If mobile is not released, as discussed above, it will be totally damaged and it will not be in use for investigating purpose also. Therefore, the impugned order needs interference and mobile is to be released temporarily. Hence, Point No.1 is answered in affirmative and in answer to Point No.2, following

order is passed.

ORDER

1. Revision application is allowed and order dated 08.05.2026 passed by Ld. Magistrate, Mahabaleshwar in Criminal Misc. Application No.8/2026 is set aside and it is ordered that the **temporary custody** of mobile having Model VIVO Y21 64GB Diamond glow bearing IMEI No. 866008058243110 be given to applicant **Wilson Zuje Fernandes** by executing Indemnity Bond of Rs.25,000/-.
2. Applicant is directed not to sell or destroy the mobile phone till the final decision of the case.
3. Applicant is further directed to produce the mobile phone as and when ordered.
4. Compliance before Magistrate Court.

Wai.
Date: 08.07.2026

(B. D. Kadam)
Additional Sessions Judge,
Wai.