

ORDER BELOW EXH.76

This is an application filed by the applicant/ accused No. 6 Namely Pankaj Dhanraj Handrale under Section 497, 503 of Bhartiya Nagarik Suraksha Sahita for return of mobile.

02) The applicant has contended that, he is the owner of Apple Iphone 11 128 GB mobile having its IMEI No.351039497602238. This mobile is seized by Ralegaon police station from the possession applicant/accused No.6 in Cr.No.285/2024 for the offence under Section 420, 465, 468, 471, 473 r/w 34 of IPC. It is stated that in said crime charge sheet came to be filed in present case. It is contended that the said mobile is needed to the applicant for his daily use. The said mobile is now lying in the Police Station. Hence, he prayed to return the same being registered owner of it.

03) I have called say of Ld. A.P.P., and I.O.. The Ld. A.P.P has objected the present application stating that accused through seized mobile contacted to other co-accused. It is stated that if said mobile is released in favour of the applicant then possibility of tampering with the evidence cannot be ruled out. On these grounds the Ld. APP prayed to reject the application.

04) I.O. objected the present application by filling say at Exh – 96 stating that the said mobile was seized from the possession of accused during investigation. It is further stated that the seized mobile was used by accused at committing offense for making communication with other accused and also said mobile was used by accused for sending forged order. I.O also objected this application on the ground

that accused have online account in said mobile, in such circumstances if seized mobile released in favor of applicant then he will tamper with evidence. On these grounds I.O. prayed to reject the application.

05) Perused record, application and say. Heard Ld. APP and Advocate of applicant Shri PK.Varma. On perusal of record, it reveals that the applicant has filed verified copy of Tax invoice receipt of seized mobile and his Aadhaar card. Upon perusal of copy of mobile purchase receipt, it reveals that, applicant is the registered owner of said mobile. It appears from the say of I.O. and record that, the said mobile was seized by the Ralegaon Police Station in Cr.No.285/2024 from the possession of applicant/accused. It appears that said mobile is laying in the police station. There is no other claimant. It also appears that investigation in said crime is completed as charge sheet came to be filed in present case.

06) The purpose behind exercise of powers under Section 497, 503 of Bhartiya Nagarik Suraksha Sanhita is to see that, the property is not kept unattended, while lying in the Court premises or police station, so that it does not become junk day by day. In the instant case, the evidence is sufficient to hold that the applicant is entitled for possession of above seized mobile. It also appears that, there is no other claimant. Therefore, no need to keep the said mobile in the custody of the Police. However, as per directions of the Hon'ble Apex Court in the case of *Sunderbhai Ambalal Desai VS State of Gujarat, reported in AIR 2003 SC 638*, certain conditions needs to be imposed upon the applicant, while releasing the said mobile. Therefore, I pass the following order.

-: ORDER :-

1. The application is allowed.

2. The Applicant is directed to execute indemnity bond of Rs.50,000/- (Rs. Fifty Thousand Only) before concern police station.
3. The Investigating Officer of Crime No.285/2024 of Ralegaon Police Station is hereby directed to handover the interim custody of Apple I-phone 11 128 GB mobile having its IMEI No.351039497602238 to the applicant after executed indemnity bond of Rs.50,000/- (Rs. Fifty Thousand Only).
4. The Investigating Officer is further directed to take photographs of the said mobile and prepare detailed Panchanama at the time of returning the said mobile to the applicant.
5. The applicant shall not tamper, alienate or change the nature of mobile in any manner and he shall produce the same as and when directed by the Court.
6. The applicant to undertake that he shall not sale or transfer the said mobile.
7. Issue letter accordingly to concern police station.
8. Suprutnama bond be filed in RCC No.112/2024.

Date:- 16/01/2025.

(D.R. Kulkarni)
Judicial Magistrate F.C.,
(Court no.2), Ralegaon