

IN THE COURT OF THE JUDICIAL MAGISTRATE NO. I, SIVAGANGAI.

**PRESENT : Tmt. B.Vaishnavi, B.E. M.L.,
Judicial Magistrate No.I(FAC),
Sivagangai.**

Dated this the 10th Day of June 2026

CrI.M.P.No.830/2026

in

Cr .No: 852 of 2024

Rahul,
S/o.Tharmarajan,
25/11, Sahulhameed street,
Sivagangai District.

.....Petitioner/Property owner

/VS/

State through the Inspector of Police,
Sivagangai Town P.S,
Cr.No. 852/2024.

....Complainant/Respondent

This Petition coming on this day for final hearing in the presence of Thiru.RMK.Rambraphakar, B.A.,B.L., Advocate for the Petitioner/Property Owner and Assistant Public Prosecutor Grade II for the respondent/Complainant and upon perusing the records and hearing the both sides, this court passed the following.

ORDER

1. This petition has been filed under Sections 497 and 503 of the BNSS 2023, seeking suitable orders for the return of the property in connection with Crime No. 852/2024 registered for the offences under Section 112 of the BNS, 2023, Sections 5 and 7(3) of the Lottery Act, and Sections 8(c) and 21(a) of the NDPS Act, 1985. The petitioner seeks interim custody of the mobile phone, namely IQOO Neo 9 Pro 5G (Fiery Red Colour), bearing IMEI No. 1: 868111077075196 and IMEI No. 2: 868111077075188, which was allegedly recovered from the accused during the course of investigation.

2. The petitioner submits that the said property may be released to him subject to the condition that it shall not be altered, tampered with, or disposed of, and that the same shall be produced before the Court or the Investigating Agency whenever required. The petitioner further undertakes to abide by any condition that may be imposed by this Court while granting interim custody of the property.

3. The respondent police have submitted that they have serious objection to the return of the aforesaid property to the petitioner.

4. On perusal of the case records, it is seen that the property has been remanded in P.R. No. 184/2024, Item No. 5(iii), and is presently before this Court. The Aadhaar identity card and tax invoice/bill produced by the petitioner were verified. As the petitioner has established ownership of the property by producing relevant documents, this Court accepts the claim of ownership and proceeds to consider the petition. In *Sunderbhai Ambalal Desai v. State of Gujarat*, the Hon'ble Supreme Court observed that the powers under Section 451 Cr.P.C. (corresponding to Section 503 of the BNSS, 2023) should be exercised expeditiously and judiciously. Considering the contentions raised by the petitioner, the materials available on record, and the facts and circumstances of the case, and keeping in mind the principles laid down in the aforesaid judgment, this Court is of the view that the petition deserves to be allowed. **Accordingly, the petition is allowed.**

Hence this court is inclined to allow this petition on following terms in PR.No.184/2024, Item No.5(iii) is ordered to be given interim custody to the petitioner, that

- (i). The petitioner shall execute a bond of Rs. 10,000/- with one surety for the satisfaction of this court.

- (ii). The petitioner shall produce photographs along with CD of the property.
- (iii). The petitioner/Owner of the property shall execute panchanama in the presence of the Head Clerk.
- (iv). The petitioner/Owner of the property shall produce the property before this court, as and when required by this court.
- (v).The petitioner/Owner of the property shall not transfer, alter the property and to produce the property as and when directed by the court.

Dictated to steno-typist and typed by her and corrected pronounced by me in open Court on this the 10th day of June 2026.

**Judicial Magistrate No.I(FAC),
Sivagangai**