

**IN THE COURT JUDICIAL MAGISTRATE, THENI**

Present: Thiru. P.Aasay Marudhu, B.A., L.L.B.,

Judicial Magistrate [F.A.C], Theni.

Tuesday this the 17th day of March 2026**CrIMP. No.605 of 2026****CNR No.TNTH020010192026**

Vishal (30/2026)

S/o.Nagaraj

...Petitioner/Vehicle Owner

Vs

State

Rep by Sub-Inspector of Police,

Theni Cyber Crime Police Station

(Crime No: 34/2024)

U/s. 66 IT Act and 318(4) BNS

...Complainant

This petition has came up on **17.03.2026** for final hearing before me in the presence of **Thiru.D.Badbhanabhan, B.A., B.L.**, learned counsel appearing for the petitioner / Owner of the property and Learned APP for the respondent and upon hearing both side and upon perusal of the records, this court delivers the following....

ORDER

This petition is filed by the Petitioner u/s.497 & 503 BNSS, for the interim custody of the case property pending disposal of the case.

1. BRIEF AVERNMENTS IN THE PETITION

a) The petitioner states that above case is pending for investigation and in said case of his property namely **NOTHING-A063 Model mobile phone** and its **IMEI No.350778866790105** as it seized by the respondent police in above case and is kept in the custody of the respondent police and that this petition is filed to hand over the said property to this petitioner as interim custody by undertaking that he will not sell, mortgage the same and will abide by the conditions imposed



by this court and prays to allow this petition.

b) On numbering of this petition, notice was ordered to the respondent police and reply received from the respondent police that if the property under this petition is returned to the petitioner might sell the mobile phone, which is the property involved in this case, and could destroy the evidence of the case, and might engage in similar criminal activities again and since the case is under investigation and so, strongly oppose this petition and Learned APP concerned that if the property under this petition is returned, he may again misuse the same for similar kind of offence and so, strongly oppose this petition.

3. POINTS FOR CONSIDERATION:

WHETHER THE CASE PROPERTY AVERRED IN THE PETITION CAN BE HANDED OVER TO THE CUSTODY OF THE PETITIONER, IF SO, WHAT SHALL BE THE CONDITIONS IF ANY?

a) Heard both sides. Records perused. The records shows that the above case property namely **NOTHING-A063 Model mobile phone** and its **IMEI No.350778866790105** which is about to be produced before this court. Hence this court forms opinion that detaining the property either in the court premises or in the Police Station premises would not fetch any use. Moreover such detention would result in causing damage and depreciation to the property as observed by Hon'ble Supreme court in *Sundar Bai Ambalal Desai Vs. State of Gujarat*, reported in AIR 2003 SC 638. Hence in order to avoid any damage to the property, this court finds that it is appropriate to return the property to the petitioner as interim custody. Therefore, this court ordered that the property involved in *Theni Cyber Crime P.S. Cr.No.34 of 2024* shall be given only as interim custody to the petitioner **Vishal, S/o.Nagaraj**. In the result the petition is allowed and the respondent police is directed to produce the case property before this court and upon production, the petitioner is entitled to receive the interim custody of the same subject to fulfillment of the following conditions :-



a) The petitioner is required to executed a own bond for sum of Rs.10,000/-.

b) The petitioner shall make an undertaking to produce the property whenever required by this court and also at the time of giving evidence before this court.

c)The petitioner is required to make a personal undertaking that he would not alter the nature as well as the feature of the property in any manner.

d) The petitioner shall produce attested photo with C.D. and undertaking affidavit along with sec 63(B) certificate of B.S.A.

e) Necessary panchanama is to be obtained from the petitioner and sureties.

*Dictated to Steno typist and typed by
her and corrected by me and pronounced
by me on 17th day of March 2026.*

Judicial Magistrate(FAC),
Theni.