

MHYA210003412022



ORDER BELOW EXH.15 in RCC No.27/2022
State of Maharashtra Vs. Dhanraj Bhalme and Ors.

1. The present application is filed by accused No.1 to release the seized mobile Realme C-21 seized in Crime No.252/2021 punishable under Section 379 r/w 34 of IPC.
2. Perused the application, say of I.O. (Exh.20) and say of Learned A.P.P. The applicant submitted that, he is owner of the seized mobile. The seized mobile is essential for his daily use. The seized mobile is lying in the Police Station, Shirpur, without any use. The applicant is ready to abide conditions, if any imposed the Court. Lastly, he prayed to allow the application.
3. The learned A.P.P. filed say below application and opposed the application on the ground that, the seizure Panchnama filed on record shows that, the Police did not seize Realme C-21 mobile as alleged by the applicant. Hence, she prayed to reject the application. The Investigation Officer filed say at Exh.20 and submitted to pass appropriate order.
4. Heard, the Learned Advocate for the applicant and Ld. A.P.P. They submitted as per contentions of application and reply. The applicant filed online copy of Mobile Bill and verified copy of Aadhaar Card. On perusal of documents, it appears that the applicant is owner of the seized mobile. The charge-sheet shows that, Investigation Officer seized black coloured mobile of Redmi company. However, the say of I.O. filed at Exh.20 shows that, he has seized black coloured Realme mobile from the accused. Thus, the I.O. seized Realme mobile instead

of Redmi mobile from the accused.

5. It is pertinent to note that, no one, except the applicant claimed the custody of seized mobile. The seized mobile is lying in the Police Station, Shirpur without any use. Moreover, the seized mobile is not required for investigation purpose. The charge-sheet is already filed before this Court. Thus, in such circumstances, considering the guidelines and directions issued by the Honorable Supreme Court, in the case of *Sundarbhai Vs. State of Gujrat*, reported in 2002 Supp(3) SCR 39, the applicant is entitled for interim custody of the seized mobile. At the same time, imposing certain conditions on the applicant may protect the interest of prosecution. Hence, considering the above findings, I pass the following order.

ORDER

1. The application is allowed.
2. Police Station Officer, Shirpur is directed to hand over the interim custody of the seized **Realme C-21 mobile** seized in Crime No.252/2021 to applicant/accused No.1 **Dhanraj Suryabhan Bhalme** after executing indemnity bond of Rs.10,000/- (Rupees Ten Thousand only).
3. **The applicant is directed to produce the original documents of seized Mobile at the time of executing indemnity bond before the Court.**
5. The applicant shall not create third party interest in seized mobile either by way of sale, mortgage etc.
6. The applicant is directed to produce the seized mobile as and when directed by this Court or Trial Court.
7. I.O. is directed to prepare detail panchanama and shall take photographs of the seized mobile at the cost of applicant before handing over it to the applicant and filed the copy of said panchnama before this Court or Trial Court.

8. Case papers of the proceeding be tagged with the charge-sheet of the present crime.
9. The proceeding is disposed of, accordingly.

Date :02.04.2025.
Place: Wani

(Shahaji D. Bhosale)
Judicial Magistrate (F.C.), Wani.

I, Abhay Pramod Bhoyar, Stenographer of (Civil Judge (Jr.Dn.) & J.M.F.C. Wani) affirm that, the contents of this PDF are same words for words, as per the original order.