



Criminal M.A. No. 282/2019

CNR NO.MHPU01-010426-2019

ORDER BELOW EXH. 1.

1} Perused application and say. Heard advocate of applicant and APP for state.

2} Application is filed u/s. 457 of Cr.P.C. for return of property i.e. mobile phone of Redmi company black colored IMEI No.864330040722486 & model no. m1803e61. According to applicant he is father of accused and owner of above described mobile. Said mobile is seized by police of Lonikalbhor police station in CR No.426/2019. Offences u/s. 354, 354-A, 354-D, 376(2)(f) of IPC & under sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 are levelled against accused. Investigation is completed and charge sheet is filed. Applicant being owner of said mobile required it for his own use and it will damage if it is kept idle in police station. So, applicant prayed to handover seized mobile to him on terms and conditions.

3} APP strongly resisted application on the ground that as per prosecution case offences u/s. 376 & 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 are levelled against accused. Victim is Cousin sister of accused and accused was using seized mobile. There is obscene material like video clip, photographs, pictures etc. in that mobile. Accused sent victim her nude picture and threatened her not to disclose to anyone. The

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material in the seized mobile is electronic incriminating evidence and required for trial therefore APP prayed to reject application.

4} Along with application applicant filed on record xerox copy of Invoice/bill of Amazon Company in respect of Redmi mobile. The details of order placed with name of applicant are there. However, same is Xerox copy. Moreover, recitals of FIR shows that there is obscene material in that mobile which accused sent to victim from time to time. Same is in the nature of incriminating electronic evidence and required in trial. In addition to that there is no proper documentary evidence about ownership of mobile of applicant as Xerox copy is not admissible. Mobile seized in offence and material in it is part of evidence, therefore, as trial yet not started, at this stage it is not proper to handover seized mobile to applicant on the grounds mentioned in application. With these observation application deserves to be rejected with following order.

ORDER

The application is rejected.

Pune.

Date – 30/08/2019.

(R.V.Adone)

Addl.Sessions Judge, Pune.

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“ I affirm that the contents of the P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno	- R.L. Bhunyar (Stenographer G-1)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 30.8.2019.
Order signed by P.O.	- 30.8.2019.
Order uploaded on	- 31.8.2019.