

ORDER BELOW EXHIBIT 1 IN CRI. M. A. NO. 69/2019

This is an application under section 457 of the Code of Criminal Procedure [for short 'the Cr.P.C'] in C. R. No. 597/2018 registered with Manchar police station under section 379 of the Indian Penal Code.

[2] It is contended by the applicant that he is owner of Samsung Galaxy - J2 Metallic Gold mobile phone. The said phone was seized by the Manchar Police during investigation of C.R. No. 597/2018. The applicant is in need of the seized mobile for daily use. No purpose will be served by keeping it either in the custody of police or Court. She is ready to abide with all conditions.

[3] The I.O submitted that he has no objection to hand over the custody of the Mobile to the applicant on conditions. The learned APP submitted that if the mobile phone is given to the applicant she may alienate it and it will be required during trial.

[4] The applicant has filed the following documents :-

- a) A verified copy of purchase bill of the mobile.
- b) A photocopy of Voter Id card of the applicant.

[5] Having considered the issue, it is evident from the documents produced on record that applicant is the owner of the seized mobile. There is no other claimant. The applicant has filed an affidavit that the mobile is seized in C.R. No. 597/2018. No purpose will be served by keeping mobile either in the custody of police or

Court. On the contrary if it is given in the custody of the applicant it will retain its significance for him. The possibility of damage to the mobile cannot be ruled out if kept lying in the police station. It is pertinent to note that the applicant had sought custody of two mobile phones in the main application. But, later on she filed an application (Exhibit 6) contending that only Samsung Galaxy- J2 Mobile Phone has been seized by the police. She has further contended that she requires custody of only Samsung Galaxy- J2 Mobile Phone and does not want to seek custody of other phone.

[6] Therefore, in the result, application deserves to be allowed. Hence, the order-

ORDER

1] The application is allowed on following conditions-

- a) The applicant shall undertake to produce the seized mobile as and when directed by the court.
- b) The applicant shall undertake not to change the nature or alienate the mobile without the prior permission of the Court.

2] The applicant shall execute a supratnama bond before me binding her to comply with the above conditions and in default to forfeit an amount of ₹ 25,000/- (twenty five thousand only).

3] Upon execution of the above bond, the investigating officer shall **handover the custody of the seized mobile i.e. Samsung Galaxy - J2 Metallic Gold mobile phone to the applicant** after drawing necessary panchnama and obtaining 3 attested colour photographs of the mobile at the expense of the applicant and send

the same to the court.

4] Record and proceedings of this application and the colour photographs and panchnama be tagged with the case that may be filed in concerned crime.

5] The application in respect of Intex Mobile Phone is disposed of in view of application Exhibit 6

Date : 16/04/2019
Place : Ghodegaon

(Bhanupratap Chouhan)
Judicial Magistrate First Class