

CC.988/2026

Dt: 10-08-2026

ORDER ON APPLICATION UNDER SECTIONS 497 & 503 OF B.N.S.S

This application is filed by the applicant under Sections 497 and 503 of B.N.S.S seeking interim custody of the seized property i.e., Apple iPhone mobile phone, seized by Malur Police in Crime No.202/2026 and subjected to P.F. No.107/2026.

2. The case of the applicant is that the police have seized his mobile phone during the course of investigation and the same is now in police custody. The applicant contends that he is the owner of the said mobile phone and the same was purchased by his parents for his educational and personal use. It is further contended that the said mobile phone is required for his day-to-day activities and non-release of the same would cause hardship.

3. The applicant has undertaken that he will produce the said mobile phone before this Court as and when directed and will not alter, damage, or change the identity of the said property. He has also expressed willingness to abide by any conditions imposed by this Court, including furnishing indemnity.

4. The learned Assistant Public Prosecutor has filed objections contending that the application is not maintainable. It is further contended that the said mobile phone was seized in connection with Crime No.202/2026 registered for the offence under Section 78(3) of the K.P. Act relating to online cricket betting. It is apprehended that if the mobile phone is released, the applicant may not produce the same before the Court or Investigating Officer, may alter or dispose of the same, or

may use it again for similar illegal activities. Hence, sought for rejection of the application.

5. The Investigating Officer has also submitted a report stating that during patrol duty on 09/05/2026, the police received credible information regarding illegal online betting activities and conducted a raid, during which the applicant was apprehended and cash along with the mobile phone was seized. It is further stated that other accused persons fled from the spot and investigation is still in progress. The I.O. has raised objections similar to that of the prosecution opposing release of the mobile phone.

6. Heard the arguments of the learned Assistant Public Prosecutor and the applicant. Perused the application, objection statement, I.O. report, and materials placed on record.

7. On perusal of the records, it is seen that the mobile phone in question is a personal electronic device. The applicant claims ownership and there are no rival claimants before this Court disputing the same. The prosecution has not placed any material to show that continued retention of the mobile phone in police custody is absolutely necessary for the purpose of investigation, except raising general apprehensions.

8. It is well settled that seized properties should not be kept in police custody for an unduly long period, particularly when such properties are prone to damage, loss of data utility, or depreciation in value. At the same time, the apprehensions of the prosecution regarding misuse, tampering, or non-production can be adequately safeguarded by imposing stringent conditions.

9. Considering the nature of the property, the claim of ownership, and balancing the rights of the applicant with the requirements of investigation, this Court is of the opinion that it is just and proper to release the mobile phone to the interim custody of the applicant, subject to conditions. Hence i proceed to pass the following:

ORDER

The application filed by the applicant under Sections 497 & 503 of B.N.S.S is hereby allowed.

The Apple iPhone mobile phone seized in Crime No.202/2026 of Malur Police Station and subjected to P.F. No.107/2026 is ordered to be released to the interim custody of the applicant, subject to the following:

CONDITIONS:

1. The applicant shall execute an indemnity bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with one surety for the like sum to the satisfaction of this Court.

2. The Investigating Officer shall draw a detailed mahazar at the time of handing over the mobile phone and shall take photographs of the mobile phone and record its IMEI number and other identifying particulars, and produce the same before this Court.

3. The applicant shall not tamper with, format, reset, or alter the data contained in the mobile phone and shall not change its identity or physical condition.

4. The applicant shall not alienate, transfer, or create any encumbrance over the said mobile phone.

5. The applicant shall produce the mobile phone before this Court as and when directed during the course of trial.

6. The applicant shall produce the mobile phone before the Investigating Officer whenever required for the purpose of investigation, including for data extraction or forensic examination.

7. In case of violation of any of the above conditions, the prosecution is at liberty to seek cancellation of the interim custody.

For compliance by

Sd/-

(Nithin Cuvello)

II-Addl.C.J & JMFC., Malur.