

Session Case No. 808/2023

Order Below Exh-9

(State of Maharashtra Vs. Annapali Waghmare)

By this application, the applicant has prayed for return of property i.e. her mobile phones seized during investigation by the police. Ld. APP has filed his reply and opposed the said prayer.

2] Heard Ld. Adv. Bhavana Sharma for the accused and Ld. APP. Perused the application and reply filed thereon.

3] Ld. Advocate submitted that the mobiles were seized from the accused immediately after her arrest on 15/11/2022. The said mobiles are nowhere connected with the offence. She submitted that the mobiles have been lying unused at the police station since it's seizure. She submitted that the mobile phones if not used, will result into malfunction of the same. The Ld. Advocate submitted that said mobile phones are required for her personal use as well as office use. She submitted that the applicant is ready to provide a bond that she will not part away with the mobile or change it's nature. She also submitted that the applicant shall produce the mobiles as and when required in the Court.

4] Ld. APP has opposed the application for return of property expressing apprehension that the

applicant may modify the mobile phones and delete it's data. Hence, he prayed that the application may be rejected.

5] I perused the record. Offence alleged in the present case is u/sec.306 of Indian Penal Code. Said mobile phone was seized from the accused on 15/11/2022. Since then the said mobile phones are lying at the police station. On query by this court, Ld. APP fairly conceded that said mobiles were never sent for CFSL examination. Therefore, at this stage, there is no material to suggest that the said mobile phones contain any data which the prosecution wants to rely upon. The allegations in the FIR, absolutely does not whisper about using mobile phone for the commission of crime. There is no doubt that mobile phones lying idle at the police station, will cause it to malfunction. In view of the guidelines of the Hon'ble Supreme Court in the case of Sundarbhai Ambalal Desai V/s. State of Gujarat(2002)10 SCC 283, the application deserves to be allowed. Hence, following order:-

ORDER

- 1] Application Exh.8 is allowed.
- 2] The mobile phones seized from the accused i.e.
*RealMe/Redmi having EMNI No.867777040446598, 8677770446580 &
 Samsung M-51 having EMNINO 353078180555541, 35773148055548,*
 be returned to the applicant on the following

conditions:-

- a] The applicant shall not dispose or part away with the said mobile phones.;
 - b] Applicant shall produce the said mobile phones as and when directed by this Court.
 - c] The applicant shall furnish indemnity bond of Rs.5000/- (Rs.Five Thousand) for both mobile phones.
- 3] Inform the concerned police station accordingly.

Date :- 07/08/2025.


(S.B. Shelar)
Addl. Sessions Judge,
Pune