

State vs. Not Known
FIR no ED NAN-000475/2020
PS New Ashok Nagar

04.12.2020
Through Video Conferencing

Application for release the Mobile phone make Redmi Note on superdari

Pr.: Ld. APP for the State.

Sh. Sameer Kumar, Id. Counsel for the applicant.

Proceedings are conducted through VC.

Submission heard. Reply of IO perused.

Instead of releasing the mobile on superdari, I am of the considered view that the mobile has to be released as per directions of Hon'ble Supreme Court in case titled as **Sunder Bhai Ambalal Desai Vs. State of Gujrat, AIR 2003 SC 638** wherein it has been held that :

"Vehicle involved in an offence may be released to the rightful owner after preparing detailed panchnama; taking photographs of the vehicle, valuation report, and a security bond.

69. The photographs of the vehicle should be attested countersigned by the complainant, accused as well as by the person to whom the custody is handed over.

70. The production of the vehicle should not be insisted upon during the trial. The panchnama and photographs along with the valuation report should suffice for the purposes of evidence.

71. Return of vehicles and permission for sale thereof should be the general norm rather than the exception.

72. If the vehicle is insured, the court shall issue notice to the owner and the insurance company for disposal of the vehicle. If there is no response or the owner declines to take the vehicle or informs that it has claimed insurance/re/eased its right in the vehicle to the insurance company and the insurance company fails to take possession of the

vehicle, the vehicle may be ordered to be sold in auction.

73. If a vehicle is reply not claimed by the accused, owner, or the insurance company or by a third person, it may be ordered to be sold by auction.”

The view of the Hon'ble Supreme Court has been reiterated by Hon'ble Delhi High Court in case titled as **Manjit Singh Vs. State in Cri. M.C. No. 4485/2013 dated 10.09.2014.**

Considering the facts and circumstances and law laid down by higher courts, mobile phone in question **be released to the owner as per invoice after due identity and IMEI No. verification** to be conducted by IO/SHO concerned and on furnishing security bond as per valuation report of the mobile. After preparation of panchnama of the machine and furnishing of security bond as per directions of Hon'ble Supreme Court, the mobile be released by the IO.

Panchnama and valuation report shall be filed in the court along with charge sheet/within one month.

Copy of this order be given dasti to applicant. Order be uploaded on the server.

**PANKAJ
ARORA**

Digitally signed by
PANKAJ ARORA
Date: 2020.12.04
02:10:37 +05'30'

(PANKAJ ARORA)
ACMM (EAST)/KKD/04.12.2020

Received

S. K. Bishra

ER. No - BR/991/2017

Date - 4/12/20