

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3345 OF 2021

Rahul Dnyandev Shejal

...Petitioner

vs.

The State of Maharashtra

...Respondent

**VISHAL
SUBHASH
PAREKAR**

Mr. Amit Sale a/w. Mr. Tukaram Shendge, for the Petitioner.
Mr. A.R. Patil, APP for the Respondent.

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VISHAL SUBHASH
PAREKAR

Date: 2022.04.21
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CORAM : N. J. JAMADAR, J.

DATE : APRIL 21, 2022

P.C.:

1. Heard the learned counsel for the petitioner and learned APP
for the State.

2. The challenge in this petition is to an order passed by the
learned Chief Judicial Magistrate, Solapur on an application for
return of property in RCC No. 443 of 2020, whereby the learned
Magistrate was persuaded to reject the application holding inter
alia that mobile phone handset and laptop, the custody of which was
sought by the applicant/accused, constituted a vital piece of
evidence as it contained the data regarding the commission of the
alleged offence.

3. The applicant is arraigned in C.R. No. 1889 of 2019 registered

with Solapur police station of the offences punishable under sections 409, 420 and 504 and 506 of the Indian Penal Code, 1860 and section 4 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. The mobile phone handset and the laptop came to be seized during the course of investigation. As the applicant sought return of the property, the investigating agency resisted the same on the count that the said property is an important piece of evidence and in the event the property is returned to the applicant, there is possibility that the applicant would tamper with the evidence contained in the said instruments. Agreeing with the apprehension of the investigating officer, the learned Magistrate rejected the application.

4. Evidently, the muddemal property was recovered from the possession of the applicant. The only objection to return of the property seems to be that it contains the data which throws light on the commission of the alleged offences by the applicant. The apprehension on the part of the prosecution does not seem justifiable. The investigating agency can very well retrieve the data from the mobile phone handset and laptop and store it in other storage devices and tender the same at trial by following appropriate data protection and security measures.

5. The learned APP submits that the investigating officer has informed that relevant data has already been annexed to the charge sheet filed in the case.

6. In view of aforesaid statement, at this stage, there is no impediment in returning the property to the petitioner. However, before returning the property, the investigating officer is at liberty to copy the data in any other storage device by following appropriate data protection and security measures.

7. The mobile phone handset and laptop be returned to the petitioner/accused on furnishing supurtnama of appropriate amount and other conditions, which may be decided by the learned Chief Judicial Magistrate.

8. The petition stands disposed.

(N. J. JAMADAR, J.)