

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO. 814 OF 2023

Shanu Manoj Vaidya

.VS.

State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr Mir Rizwan Ali, Advocates for the applicant
Mrs Mayuri Deshmukh, APP for the non-applicant/State

CORAM : G.A. SANAP, J.
DATE : AUGUST 3, 2023.

Heard learned Advocate for the applicant and learned
APP for the State. Perused the record and proceedings.

2. In this application, filed under Section 482 of the Code of Criminal Procedure, the applicant has challenged the order dated 02.05.2023 passed by the learned Special Judge (NDPS Court), Nagpur, whereby the learned Special Judge rejected the application made by the applicant/accused for return of his mobile handset. The applicant/accused was apprehended by the police on the basis of the information and 2.01 gm mephedrone powder was sized from his possession. At the same time, the police seized his mobile handset as well as motorbike. It is the case of the prosecution that this mobile phone was used by the accused/ applicant to contact accused No.2 in connection with

the crime. It is the case of the prosecution that the seized mobile phone of accused Nos. 1 and 2 is the valuable piece of evidence.

3. It is the case of the applicant that the charge-sheet has been filed in the crime. The mobile handset of Apple company is lying in the police station. It is submitted that for the purpose of trial the retention of the mobile phone may not be necessary. The applicant/accused No.1 therefore prayed for release of his mobile.

4. The first application was rejected by the learned Special Judge, Nagpur vide order dated 30.01.2023. The revision application filed challenging the said order was withdrawn on 18.04.2023. The applicant/accused No.1 again made an application at Exh. 3 before the learned Special Judge, Nagpur. Learned Special Judge for the reasons recorded in the order rejected the said application.

5. On going through the reasons recorded by the learned Special Judge I am of the view that the learned Special Judge has not committed any mistake in rejecting the application. The mobile handset is the most important piece of evidence relied upon by the prosecution. The prosecution would be required to prove its case on the basis of the oral and documentary evidence. In the facts and circumstances, I do not see any substance in the application. The order dated 02.05.2023 passed by the learned Special Judge, Nagpur is in accordance with law. Therefore, there

is no substance in the application.

6. Accordingly, the criminal application stands rejected.

(G. A. SANAP, J.)

Namrata