

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

CRIMINAL WRIT PETITION (WP) NO.785 OF 2022

Ku. Janhavi D/o Santosh Lande

Aged about: 19 Yrs., Occ.: Student,
R/o. 0201, Jayanti mansion No.6,
opposite Kachore lawn,
Manish Nagar, Nagpur

.... **PETITIONER**

// VERSUS //

State of Maharashtra, Through

P.S.O. Crime Branch, Economic
office Wing, Nagpur

.... **RESPONDENT**

Shri S.J. Parate, Advocate for the petitioner
Shri H.D. Dubey, A.P.P. for the respondent

CORAM : G. A. SANAP, J.
DATED : 25th JANUARY, 2023

ORAL JUDGMENT :

- 1) Heard.
- 2) **RULE.** Rule made returnable forthwith. Heard finally by consent of learned Advocates for the parties.

3) The petitioner, who is a daughter of accused No.1 - Santosh Lande, has challenged the order dated 14/07/2022 passed by learned Additional Sessions Judge – 15, Nagpur. By the impugned order, learned Additional Sessions Judge was pleased to reject the application made by the petitioner for return of the seized property in Crime No. 276/2022 namely Apple I-Pad, DELL Laptop and one OPPO company mobile phone.

4) The father of petitioner is the accused No.1 in crime bearing No.276/2022, registered by Economic Wing of Police Station, Pachpaoli, Nagpur for commission of offences under Sections 406, 409, 420, 120-B read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, Section 66(d) of the Information Technology (Amendment) Act, 2008 and Section 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. In this crime there are four accused. The articles mentioned above were seized during the investigation by the

Investigating Officer. It is a case of the prosecution that the I-Pad, Laptop and OPPO Company mobile phone were used by the accused for commission of the crime. In the application made for return of the articles, the petitioner has stated that She is a student of 1st year of B.E. (Bachelor of Engineering). These gadgets were purchased by her father for her use. On the date of seizure of these articles by police, she was using the same for study purpose. Her father and the remaining accused have not used these articles at any time. These gadgets are required by her for her study purpose. The seizure of the gadgets was illegal. On these averments she made a prayer before the learned Additional Sessions Judge for return of the same. The learned Judge rejected the said application by holding that the gadgets are required by the police for the purpose of investigation. The learned Judge took note of the fact that these articles were allegedly used for commission of crime.

5) I have heard the learned Advocate for the petitioner and the learned Additional Public Prosecutor for the State. Perused the record and proceedings.

6) It is seen on perusal of the reply filed by the respondent/ State that the articles have been forwarded to the Chemical Analyzer for examination on 27/05/2022. It is stated that the report of Chemical Analyzer is awaited. It is further stated in the reply that the articles claimed by the petitioner were used in actual commission of the crime. It is to be noted that the charge-sheet in the crime has been filed, after filing this reply by the State. It is to be noted that the articles have been sent for chemical analyses. The report is not yet received. This is undisputed.

7) It is seen on perusal of the order passed by the learned Additional Sessions Judge as well as the material on record that it has been consistent with case of the prosecution that in a serious crime committed by the accused, these articles were used. The

seizure of the articles during the course of the investigation is not disputed. It is contended that seizure of the article is illegal. According to the petitioner, the articles were used by her for study purpose. She has specifically stated that the articles were not used by any of the accused.

8) On going through the record and particularly the order passed by the learned Judge it is seen that all these aspects have been appropriately dealt with. The prosecution has made it clear that the Chemical Analyzer's report of the examination and analysis of the articles seized is not yet received. In my view, therefore, the investigation vis-a-vis the seized articles is not complete. The report of the Chemical Analyzer would crystallize the issue. In my view, therefore, the learned Judge was right in rejecting the application at this stage. As such, no interference is warranted in the order passed by the learned Judge. The petition, therefore, deserves to be dismissed and the same is accordingly dismissed.

9) However, it is made clear that on the basis of the facts stated in the charge-sheet and on receipt of the Chemical Analyzer's report by the prosecution, the applicant would be at liberty to make fresh application before the Trial Court. As and when such application is made, the same shall be decided in accordance with law and on the basis of the material on record.

(G. A. SANAP, J.)

Jayashree..