

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2603 OF 2026

Bhagirath Maheshkumar Purohit

... Petitioner

Vs.

The State of Maharashtra

(Through D.B. Marg Police Station, Mumbai)

... Respondent

Ms. Arsuma Suhel Sayed, for the Petitioners.

Ms. Savita M. Yadav, APP, for the State.

CORAM : MADHAV J. JAMDAR, J.

DATE : 15th JUNE, 2026.

P.C.:-

1) Heard Ms.Sayed, learned counsel appearing for the Petitioner and Ms. Yadav, learned APP for the State.

2) By the present Writ Petition filed under Article 227 of the Constitution of India, the Petitioner *inter alia* challenges the legality and validity of the order dated 4th April 2026 passed by the learned Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act"), City Civil and Sessions Court, Greater Bombay, below Exhibit 17 in NDPS Special Case No. 2519 of 2025 ("**Impugned Order**"). The impugned order has been passed on an application preferred by the Petitioner at Exhibit 17 seeking the return of his property, namely a mobile

handset, which was seized by the investigating officer at the time of his arrest.

3) It is the submission of the learned Counsel appearing for the Petitioner that the Call Detail Records (CDRs) pertaining to the mobile handset forms part of the charge-sheet. Therefore, the physical custody of the mobile handset is not required for investigation. It is further submitted that the Petitioner has been released on bail as the investigation is completed. In such circumstances, there is no reason for the Investigating Officer to retain the said mobile handset. Learned Counsel further submitted that if the mobile handset is not returned, the same is likely to deteriorate in value and condition.

4) On the other hand, the learned APP supported the impugned order. She submitted that the Petitioner, who is arraigned as Accused No. 4 in the aforesaid case, had allegedly made contact with Accused No. 1 through a WhatsApp call. Learned APP further submitted that the mobile handset seized from the Petitioner is an important evidence and its production during the course of trial may be necessary to establish the WhatsApp call records and the notifications relating thereto.

5) By the said order, the learned Special Judge, while rejecting the Petitioner's application seeking release of the mobile handset, has given elaborate reasons in paragraph No. 4, which reads as under :

“4. Prosecution does not deny the submission of the

applicant that mobile handset has been seized from his possession. The applicant though ready to undertake that he will preserve mobile handset, there is no guarantee that the applicant will preserve the 'remain or placeholder or a notification stub' of deleted chats/calls record of whatsapp call which he had made with the accused no.1. The applicant has been arrayed in the crime on such evidence extracted from the CDR pertaining to the phone call made by the applicant with accused no.1. The prosecution specifically submits that applicant had made whatsapp calls to accused. The Investigating Officer recovered commercial quantity of the contraband from the accused no.1. In such circumstances, the mobile handset and particularly 'remain or placeholder or a notification stub' of deleted chats/calls record of deleted chats/calls record of whatsapp call between the applicant and accused may assume importance while hearing of the case during trial. In such circumstances, it would not be proper to handover the mobile handset in question to the applicant unless material evidence is recorded in respect of mobile handset.”

- 6) Learned Special Judge has set out detailed reasons while rejecting the Petitioner's application for return of the mobile handset. A perusal of the record indicates that the said mobile handset is an important evidence and its production is required during the course of the trial.
- 7) In view of the aforesaid facts and circumstances, no case is made out

for interference in the impugned order in exercise of jurisdiction under Article 227 of the Constitution of India.

8) The Writ Petition is accordingly dismissed, however, with no order as to costs.

(MADHAV J. JAMDAR, J.)