

**IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE COURT, GANGTOK
SIKKIM**

Present :-

JABYANG DORJEE SHERPA, CHIEF JUDICIAL MAGISTRATE, GANGTOK

23-07-2026

Crl.M.CRel/58/2026

Petitioner/s :- Abishek Tamang
By Abishek Tamang (Party-in-Person)

Respondent/s :- State of Sikkim
By

ORDER

This day is fixed for further hearing and orders.

Petitioner Abishek Tamang (Crl. Misc. Case No. 58 of 2026) present through Ld. Counsel Ms. Renuka Lohar.

Petitioner Durga Khati (Crl. Misc. Case No. 61 of 2026) present with Ld. Counsel Ms. Kanchan Rai.

Ld. APP Ms. Pollin Rai is present for the State.

Ld. Counsel Ms. Renuka Lohar for the petitioner Abishek Tamang argued that all the material objects were seized from the possession of Abishek Tamang or through the shop where he had sold the material objects. That some of the material objects were identified by the other petitioner Durga Khati during TIP and trial and were released already. That the remaining material object being MO-IV gold ring with missing stones, MO-VII cash amounting to Rs. 80,500/-, MO-VIII 3 nos. of golden coloured rings, MO-IX golden coloured plain earring with chain and pendant, MO-X one golden coloured star design earring and MO-XI two silver coloured chain should be released to the Petitioner Abishek Tamang as the items were found in his possession.

Ld. Counsel Ms. Kanchan Rai for the Petitioner Durga Khati argued that the Petitioner had identified MO-IV gold ring during TIP and trial but due to inadvertence failed to mention the same when the earlier release petition was filed. That the

Petitioner in the FIR had alleged that Rs. 10,000/- was also stolen. That not all stolen items were recovered. The accused has given disclosure that few items were sold. That the amount of Rs. 80,500/- are the proceeds of the items that was sold and both MO-IV gold ring and MO-VII cash of Rs. 80,500/- should be released to petitioner Durga Khati.

Ld. APP submits that there is objection to the release of the petitioner Abishek Tamang on the ground that the accused had given disclosure that he had sold certain items and the recovered money are the proceeds of such sale.

Heard and considered.

Both during TIP and trial the petitioner Durga Khati identified MO-IV gold ring with missing stones as belonging to his wife and therefore MO-IV gold ring is to be released to the Petitioner Durga Khati.

The Petitioner Durga Khati in his FIR has stated that cash approx Rs. 10,000/- had also been stolen. No TIP was conducted for MO-VII cash of Rs. 80,500/- that was recovered. The same was also not identified by the petitioner Durga Khati during trial. Further in the FIR and in the charge-sheet there is no description of the stolen jewellery items. In the alleged disclosure the accused is alleged to have disclosed that he sold one bracelets and three churas. This Court is unable to satisfy itself that the Rs. 80,500/- recovered from the accused are the proceeds of the stolen jewellery of the Petitioner Durga Khati. Since the money was recovered from the Petitioner Abishek Tamang, MO-VII cash of Rs. 80,500/- be released to him.

The remaining golden and silver coloured jewellery items MO-VIII, MO-IX, MO-X and MO-XI be also released to the Petitioner Abishek Tamang from whom it was found and seized.

Crl Misc. Case Release No. 58 of 2026 and Crl. Misc. Case Release no. 61 of 2026 are hereby disposed of.

Sd/-
JABYANG DORJEE SHERPA
CHIEF JUDICIAL MAGISTRATE, GANGTOK

Ld. Asst. LADC Ms. Renuka Lohar submits that this application is for the release of three items i.e., golden colourring with crystal embedded marked as MO-VIII colly, one golden colour plain earring with chain marked as MO-IX and one golden colour earring marked as MO-X, two silver chains entangled marked as MO-XI and cash amounting to Rs. 80,500/- marked as MO-VII which was seized from the possession/recovered from Abishek Tamang which was seized in connection with Sadar P.S Case No. 117 of 2025 dated 25.05.2025, under section 305(a)/331(3) of BNSS, 2023.

The petitioner is the absolute owner. There is no objection from the prosecution.

Considering the circumstances, the petition for release is allowed subject to the following conditions:-

1. Petitioner to execute bond for Rs. __,00,000/-.
- 2.

The investigating officer to release to the Petitioner the above mentioned items seized vide seizure memo dated 28.08.2025 in Sadar PS case no. 117 of 2025.

This Crl. Misc. Case (Release) No. 58 of 2026 is hereby disposed of.

To: