

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
FTC III, ALIPORE, SOUTH 24 PARGANAS.

Present	Souvik De (WB01069) Additional Sessions Judge, Fast Track 3 rd Court, Alipore, South 24 Parganas.
Criminal Motion No.	226 of 2025
CNR	WBSP01-010530-2025
Revision/ Motion Under Sections	397/399 of the Criminal Procedure Code, 1973 corresponding to section 438/440 of the BNSS
Order Under Challenge	Order dated 18.07.2025 passed in connection with Kareya Police Station Case No.46 of 2025 registered under Sections 498A/406/509/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act, by the Ld. Chief Judicial Magistrate, Alipore, South 24 Parganas
Revisionist	Feroze Ahmed
Represented By	Md. Shamimuddin, Ld. Advocate
Respondents	Nashiza Alam The State of West Bengal
Represented By	Meena Shabnam, Ld. Advocate for the Private Respondent, the State Respondent remained unrepresented.
Date Of Filing Of Motion Before Ld. Sessions Judge, South 24 Parganas, Alipore	24.07.2025
Date Of Receipt Of Record By This Court	13.11.2025
Date on which Argument Done	08.07.2026
Date of the Judgment	08.07.2026

J U D G M E N T

1. Introduction

The present Criminal Motion has been preferred by the accused husband assailing the legality, propriety and correctness of the order dated **18.07.2025** passed by the Learned Chief Judicial Magistrate, Alipore in connection with **Kareya Police Station Case No.46 of 2025** registered under Sections **498A/406/509/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.**

By the impugned order, the Learned Chief Judicial Magistrate directed return of the seized articles in favour of the de facto complainant/wife in interim custody upon her executing a bond of **Rs.1,00,000/-**, subject to production of the articles as and when called for by the Court.

Being dissatisfied, the accused husband has preferred the present revision.

The State respondent remained absent despite service.

The private respondent entered appearance through learned Advocate and contested the revision.

2. Facts leading to the Revision

The prosecution case, in short, is that on the basis of a written complaint lodged by the opposite party no.2, Kareya Police Station Case No.46 of 2025 came to be registered alleging commission of offences punishable under Sections 498A/406/509/34 IPC and Sections 3/4 of the Dowry Prohibition Act.

During investigation, the Investigating Officer seized various articles from different places under a seizure list dated **26.03.2025**.

Subsequently, the de facto complainant prayed before the Learned Chief Judicial Magistrate for return of those seized articles in interim custody claiming the same to be her **stridhan** properties.

The Learned Magistrate, by the impugned order dated **18.07.2025**, allowed the said application and directed return of all the

seized articles in interim jimma in favour of the de facto complainant on execution of a bond of Rs.1,00,000/-.

The said order has been challenged in this revision.

3. Submission on behalf of the Revisionist

Learned Advocate appearing on behalf of the revisionist assailed the impugned order mainly on the following grounds:-

(i) Non-application of judicial mind

It is submitted that the Learned Magistrate mechanically presumed every article reflected in the seizure list to be the stridhan property of the wife without making any independent judicial assessment.

According to the revisionist, such omnibus approach is contrary to settled principles governing interim custody of seized property.

(ii) Serious discrepancy between the FIR and seizure list

It is vehemently argued that the written complaint/FIR specifically mentioned only certain articles as constituting the alleged stridhan of the complainant.

However, during investigation several additional articles were seized which find place only in the seizure list.

Many such articles were never claimed by the complainant in her written complaint.

Without examining this material discrepancy, the Learned Magistrate directed return of every seized article.

It is submitted that the impugned order proceeds on an erroneous assumption that every article seized during investigation automatically becomes the stridhan property of the complainant merely because the prosecution has been launched under Sections 498A and 406 IPC.

(iii) Failure to record reasons

The learned counsel submits that the impugned order does not contain any discussion regarding:-

- ownership of individual articles;
- source of acquisition;
- whether the articles were specifically claimed by the complainant;
- whether rival claims existed regarding particular articles;
- whether all articles could legally be termed as stridhan.

According to the revisionist, the order is cryptic and bereft of reasons.

(iv) Improper exercise of jurisdiction

It is further argued that while exercising jurisdiction relating to interim custody, the Court was under an obligation to examine prima facie entitlement article-wise.

Instead, the Learned Magistrate passed a blanket order covering every seized article irrespective of the nature of the property.

Such exercise of discretion is arbitrary and legally unsustainable.

(v) Bond amount wholly inadequate

Learned counsel further submits that even assuming interim custody was otherwise permissible, the bond amount of **Rs.1,00,000/-** is wholly disproportionate to the value of the articles released.

No assessment of valuation has been made.

If valuable jewellery and costly household articles are released, an illusory bond amount frustrates the very object of securing production of the properties during trial.

(vi) Prayer

Accordingly, it has been prayed that the impugned order be set aside.

4. Submission on behalf of the Private Respondent

Learned Advocate appearing for the opposite party no.2 supported the impugned order.

It is argued that the articles seized during investigation were recovered pursuant to the investigation conducted by the police in connection with offences under Sections 498A and 406 IPC.

The Investigating Officer, after due investigation, seized the articles believing the same to be connected with the allegations raised by the complainant.

According to the private respondent, once such articles have been recovered from the matrimonial home pursuant to investigation, the Learned Magistrate rightly exercised discretion in granting interim custody to the wife.

It is further argued that the object of interim release is merely to prevent deterioration of valuable household articles and ornaments during pendency of investigation and trial.

The learned Magistrate has sufficiently protected the interest of all parties by directing execution of a bond.

It is also submitted that detailed adjudication regarding ownership cannot be undertaken at the stage of interim custody.

Such questions are ultimately to be decided during trial after appreciation of evidence.

The opposite party therefore prayed for dismissal of the revision and for affirmance of the impugned order.

5. Point for Determination

Having heard the learned Advocates appearing for the revisionist and the private respondent and upon careful perusal of the Lower Court Records as well as the impugned order, the following points arise for determination:-

1. Whether the Learned Chief Judicial Magistrate exercised jurisdiction in accordance with law while directing return of all the seized articles in interim custody in favour of the de facto complainant?
2. Whether every article reflected in the seizure list could automatically be treated as the stridhan property of the complainant merely because the criminal case has been

instituted under Sections 498A/406 IPC and Sections 3/4 of the Dowry Prohibition Act?

3. Whether the impugned order suffers from non-application of judicial mind and therefore calls for interference in revisional jurisdiction?
4. To what relief, if any, are the parties entitled?

6. Scope of Revisional Jurisdiction

Though the revisional jurisdiction is not intended to substitute the opinion of the Revisional Court for that of the Trial Court merely because another view is possible, it is equally well settled that where the order under challenge suffers from patent illegality, material irregularity, improper exercise of jurisdiction or failure to apply settled principles of law, interference becomes not only permissible but imperative to secure the ends of justice.

The revisional Court is duty bound to examine whether judicial discretion has been exercised upon proper appreciation of the materials available on record.

An order passed mechanically without recording reasons or without considering relevant materials cannot be permitted to stand merely because it concerns an interlocutory stage of the proceeding.

7. Discussion

The entire controversy in the present revision revolves around one fundamental question.

Whether every article seized by the Investigating Officer during investigation automatically becomes the stridhan property of the wife so as to justify its interim release in her favour.

In the considered opinion of this Court, the answer has necessarily to be in the negative.

The concept of **stridhan** has attained a definite legal connotation.

Every article lying in the matrimonial home cannot be labelled as stridhan merely because the wife claims so or because the police has seized the same during investigation.

Similarly, every article seized during investigation in a case under Sections 498A and 406 IPC does not necessarily become the exclusive property of the wife.

The criminal Court exercising jurisdiction relating to interim custody is required to undertake a prima facie scrutiny regarding entitlement over the seized properties.

Although the Court is not expected to finally adjudicate title at the interlocutory stage, it is nevertheless under an obligation to examine whether the claim made by the applicant finds reasonable support from the contemporaneous materials available on record.

The discretion cannot be exercised mechanically.

In the present case, the Learned Magistrate appears to have proceeded on the premise that since the prosecution relates to offences under Sections 498A and 406 IPC, every article mentioned in the seizure list deserves to be returned to the complainant.

Such approach, in the opinion of this Court, overlooks an important factual aspect emerging from the record.

The written complaint lodged by the opposite party no.2 specifically narrates certain articles allegedly entrusted to the accused persons or retained by them.

However, the seizure list prepared during investigation contains several additional articles which admittedly do not find any mention whatsoever in the written complaint.

This distinction assumes considerable significance.

The written complaint constitutes the earliest version of the complainant regarding her allegations.

Although the FIR need not be encyclopaedic, the articles claimed by the complainant to be her stridhan assume considerable evidentiary value at the stage of considering interim custody.

If certain articles were never claimed in the written complaint but subsequently appear only in the seizure list, the Court cannot ignore such discrepancy.

Rather, the Court is required to examine the matter carefully before directing interim release.

Unfortunately, the impugned order is completely silent on this aspect.

The Learned Magistrate has not discussed-

- which articles were specifically described in the written complaint;
- which articles appeared only in the seizure list;
- whether rival claims existed regarding those articles;
- whether any explanation existed regarding inclusion of additional articles in the seizure list;
- whether all such articles could prima facie be treated as stridhan.

The impugned order thus proceeds upon a broad generalisation instead of a judicial determination.

Merely because an article has been seized during investigation does not ipso facto establish either ownership or exclusive possessory right of the complainant.

Investigation and adjudication stand on entirely different footings.

The Investigating Officer may seize an article because it appears connected with investigation.

The Court, however, while exercising judicial discretion under the provisions relating to interim custody, has to independently assess whether interim release of that particular article is justified.

Judicial discretion cannot be substituted by investigative opinion.

Another aspect which deserves consideration is the reasoning adopted by the Learned Magistrate.

A judicial order must reflect reasons.

Reasons constitute the heartbeat of every judicial conclusion.

Recording reasons ensures transparency, fairness and facilitates effective appellate or revisional scrutiny.

The impugned order merely records a conclusion that the seized articles are stridhan articles and therefore liable to be returned.

No discussion whatsoever has been made regarding the discrepancy between the written complaint and the seizure list.

No reason has been assigned as to why articles not even referred to in the written complaint should nevertheless be treated as stridhan.

Such absence of reasoning renders the order vulnerable.

The Court is conscious that valuable ornaments and household articles should not ordinarily remain in the custody of the police malkhana for an indefinite period.

However, equally important is the principle that interim custody should be granted only after proper judicial satisfaction regarding prima facie entitlement.

The exercise is required to balance competing claims of both spouses.

Neither party can be prejudiced by a blanket order unsupported by reasons.

Equally significant is the question regarding the bond amount.

The Learned Magistrate directed execution of a bond of only **Rs.1,00,000/-**.

The order does not disclose any basis for arriving at such figure.

If the aggregate value of the released articles substantially exceeds the bond amount, fixation of such bond ceases to be an effective safeguard.

The purpose behind insisting upon a bond is to ensure production of the articles whenever required during investigation or trial.

The bond amount, therefore, should bear reasonable nexus with the approximate value of the articles released.

The impugned order is conspicuously silent regarding valuation of the articles.

No inventory-wise assessment has been undertaken.

Consequently, the fixation of bond also appears to have been made mechanically.

This Court is therefore unable to approve the sweeping observation implicit in the impugned order that every article mentioned in the seizure list deserves interim release merely because the criminal proceeding relates to matrimonial offences.

Such omnibus approach is neither supported by logic nor by settled principles governing interim custody of seized properties.

The Learned Magistrate ought to have undertaken an article-wise examination after comparing the allegations contained in the written complaint with the articles reflected in the seizure list before arriving at any conclusion regarding interim entitlement.

Accordingly, Point Nos.1, 2 and 3 are answered in favour of the revisionist.

8. Findings

Upon anxious consideration of the rival submissions and the materials available, this Court finds that the impugned order cannot be sustained in law for more than one reason.

Firstly, the Learned Chief Judicial Magistrate failed to appreciate the material discrepancy existing between the written complaint lodged by the private respondent and the seizure list dated **26.03.2025** prepared during investigation.

The written complaint constitutes the foundational document on the basis whereof the criminal law was set into motion. It is therein that the complainant specifically delineated the articles which, according to her, constituted her **stridhan** and which were allegedly retained by the accused persons. The seizure list, however, contains several articles over and above those specifically referred to in the written complaint.

The Learned Magistrate has unfortunately not undertaken any exercise to identify-

- which articles were specifically claimed by the complainant as her stridhan in the written complaint;

- which articles came to be seized by the Investigating Officer though not referred to in the written complaint;
- whether any explanation existed regarding such inclusion;
- whether there existed rival prima facie claims over such additional articles.

Without undertaking such exercise, a blanket direction was issued directing return of all the seized articles.

This Court is unable to approve such approach.

Secondly, the impugned order proceeds upon a broad presumption that every article seized during investigation in a prosecution under Sections 498A/406 IPC automatically assumes the character of **stridhan**.

Such proposition does not have the sanction of law.

The offence alleged in a criminal proceeding cannot determine the ownership of every article seized during investigation.

The concept of **stridhan** is governed by settled legal principles and depends upon the nature of acquisition, ownership, entrustment and surrounding circumstances.

Whether a particular article constitutes stridhan has to be examined on the basis of the available materials.

A criminal Court dealing with interim custody cannot dispense with such judicial scrutiny by merely relying upon the factum of seizure.

Thirdly, judicial discretion must always be supported by cogent reasons.

The impugned order merely records the conclusion that the seized articles are liable to be returned without discussing why each category of article deserves such treatment.

Reasons are not an empty formality.

They constitute the soul of every judicial determination.

An order affecting valuable proprietary rights of contesting parties must disclose proper application of judicial mind.

Unfortunately, the impugned order falls short of this requirement.

Fourthly, this Court also finds substance in the grievance raised by the revisionist regarding the bond amount.

The Learned Magistrate directed execution of a bond of only **Rs.1,00,000/-** without recording any basis regarding the valuation of the articles released.

The order does not indicate-

- approximate value of the seized articles;
- basis for arriving at the bond amount;
- whether such bond adequately secures production of the articles during trial.

The amount appears to have been fixed without any discernible reasoning.

Although this Court refrains from expressing any opinion regarding the exact valuation, the Learned Magistrate shall necessarily examine the approximate value of the articles before fixing any bond amount.

The bond should reasonably correspond with the aggregate value of the articles proposed to be released in interim custody.

9. Necessity of Fresh Consideration

Having regard to the aforesaid circumstances, this Court is of the considered opinion that instead of itself embarking upon an article-wise exercise-which would virtually amount to assuming the jurisdiction of the Court of first instance-the proper course would be to remit the matter to the Learned Jurisdictional Magistrate for fresh adjudication.

The Learned Magistrate shall independently consider the rival claims of both parties after hearing them and upon proper comparison of-

- the written complaint;
- the seizure list dated **26.03.2025**;

- the case diary, if necessary;
- and any other relevant materials available on record.

The Learned Magistrate shall thereafter pass a fresh, reasoned and speaking order.

It is made abundantly clear that this Court has intentionally refrained from expressing any final opinion regarding ownership or entitlement over any individual article so that the Learned Magistrate may decide the matter uninfluenced by any observation contained herein except the legal principles discussed above.

10. Edict

Accordingly, it is,

ORDERED

That the Criminal Motion/Revisional Application is **allowed on contest against the private respondent and ex parte against the State respondent**, however, without any order as to costs.

The impugned order dated **18.07.2025** passed by the Learned Chief Judicial Magistrate, Alipore in connection with **Kareya Police Station Case No.46 of 2025** is hereby **set aside**.

The matter is remanded to the Learned Jurisdictional Magistrate for fresh consideration of the application for interim custody (jimma) of the seized articles strictly in accordance with law.

The Learned Magistrate shall, while deciding the application afresh, adhere to the following directions:-

(i) The Learned Magistrate shall compare the articles specifically delineated in the written complaint by the private respondent as constituting her **stridhan** with the articles reflected in the seizure list dated **26.03.2025**.

(ii) The Learned Magistrate shall specifically identify those articles which appear in the seizure list but do not find any mention whatsoever in the written complaint.

(iii) Merely because an article has been seized during investigation in a prosecution under Sections 498A/406 IPC and

Sections 3/4 of the Dowry Prohibition Act, it shall not automatically be presumed to be the stridhan property of the complainant.

(iv) The Learned Magistrate shall consider the rival prima facie claims of both parties in respect of every disputed article independently and record reasons therefor.

(v) The Learned Magistrate shall pass an reasoned order instead of adopting a generic or omnibus approach regarding all the seized properties.

(vi) While considering interim release, the Learned Magistrate shall bear in mind the distinction between-

- (a) articles specifically claimed in the written complaint as stridhan;
- (b) articles seized during investigation but not referred to in the written complaint;
- (c) articles regarding which rival claims are raised.

Each category shall receive independent judicial consideration.

(vii) In the event any article is directed to be released in interim custody, the Learned Magistrate shall assess its approximate market value and fix the amount of bond commensurate with such valuation so as to adequately secure production of the articles during trial.

(viii) The Learned Magistrate can also impose such additional conditions as may be considered necessary, including preparation of a detailed inventory, photographing or videographing of the articles before release, obtaining proper identification marks wherever feasible, and incorporating an undertaking from the recipient not to alienate, encumber, dispose of, alter or change the identity or character of the articles without prior leave of the Court.

(ix) The recipient of interim custody shall preserve the articles in the same condition and shall produce the same before the Court whenever directed during investigation or trial.

(x) The Learned Magistrate shall dispose of the application afresh by passing a **reasoned, logical and speaking order**, uninfluenced by the observations contained in the impugned order.

So long the matter is not disposed of by the Ld. Magistrate the interim jimma so ordered by Ld. Magistrate would continue.

The Criminal Motion stands disposed of.

Note in the Germane Register.

Upload the order in the CIS.

Judgment is pronounced and delivered in open court on 08.07.2026.

Dictated & corrected

Sd/-

Souvik De
Additional Sessions Judge
Fast Track 3rd Court, Alipore
South 24 Parganas

Sd/-

Souvik De(WB01069)
Additional Sessions Judge
Fast Track 3rd Court, Alipore
South 24 Parganas