

**ORDER ON THE APPLICATION FILED UNDER
SECTION 451 R/w 457 OF Cr.P.C.**

The accused has filed this application for release of gold ornaments, silver articles and cash of Rs.43,000/- to his interim custody. It is contended that the concerned PI has seized 1.196 grams of ganja along with cash of Rs.43,000/-, 141 grams of gold ornaments and one silver ring under the mahazar. The said gold ornaments and silver ring were found in a plastic cover in the Ragi field. The allegation that the said gold ornaments, cash and silver ring were thrown in the open Ragi field is totally false. On the other hand, the police have taken these valuable properties, which were kept safely in the almirah of his house and said ornaments were belonged to his wife, daughter and mother. They were seized under mahazar and subjected in PF No.199/2021. He is ready to abide any conditions to be imposed by this court and also undertakes to produce the jewels as and when required before this court. It is not safe to keep those valuable properties in the police station. He has produced relevant materials in support of his claim. Hence prays to allow the application.

2. Learned Public Prosecutor filed detailed objection and took up the contention that, in this case on hand, the concerned police registered a case in Cr.No.386/2021, under Section 20(b) of NDPS Act, 1985. Apart from it, in this case on

hand, the police have seized valuable properties including cash of Rs.43,000/- and subjected in PF No.199/2021. If these valuables are released to the interim custody of the accused, he may not produce the same during the course of trial. Therefore, these properties are required for the purpose of identification by the witnesses. Hence his application may be rejected.

3. Heard both sides and perused the materials available on record.

4. The sole point that arises for determination of this Court is

“Whether the applicant/accused has made out grounds to release the valuable properties including cash as mentioned in the application to his interim custody?

5. My finding on the above point is in the affirmative, for the following;

REASONS

6. As seen from the prosecution papers that the complainant and his staff have conducted raid on the land belonged to the accused where Ragi crop was grown, on 21.09.2022 at about 11:30 a.m. By that time, this accused/applicant was present. But on seeing the police tried to run away. He was apprehended on the spot itself and in his presence, a plastic gunny bag kept in front of his house was checked, which containing ganja flowers and fruits, apart from gold ornaments,

silver articles and cash of Rs.43,000/-. All these things were weighed on the spot, taken to the custody, recorded in property form and brought to the police station and case was registered. On completion of investigation, charge sheet was laid against him. Therefore, the accused/applicant is facing trial in this case on hand. At this juncture, he has come up with this application seeking release of gold ornaments, silver articles and cash to his interim custody. The objection of P.P., is that these material properties are required for identification during the course of trial. It is the contention of the accused/applicant that to establish his contention regarding his ownership on valuables, he had produced materials in this regard. If these valuable properties are kept in the police station, absolutely there is no safety for the above ornaments. Hence, this court has taken into consideration the materials available on record.

7. From the available materials, it is revealed that the claimed gold ornaments, silver articles, apart from cash of Rs.43,000/- were allegedly seized from the possession of accused along with contraband article. The accused was booked for the offence U/s.20(b) of NDPS Act. Therefore, the above valuable properties are not relevant in connection with the nature of the case is concerned.

8. The accused is living in the society having dependants and he had expressed his readiness and willingness to abide any conditions to be imposed by the court. Of course, the seized valuable properties are definitely required for identification during the course of the trial. Apart from it, it is not safe to keep those valuable properties in the police station for a long period i.e. completion of trial. Under these circumstances, this court feels that the seized gold ornaments, silver article and cash of Rs.43,000/-, which are subjected in PF No.199/2021 are to be released to the interim custody of accused/applicant, conditionally. Accordingly, I answer this point in the affirmative and proceed to pass the following;

ORDER

The application filed by the accused/applicant under Sections 451 r/w Section 457 of Cr.P.C., is allowed.

The gold ornaments, silver article and cash of Rs.43,000/- as mentioned in PF No.199/2021 are released to the interim custody of the accused/applicant after conducting mahazar, subject to executing indemnity bond for Rs.2,00,000/ with one surety to the likesum, apart from following under mentioned conditions;

1. The applicant/accused shall produce

these valuable properties before the Court during trial.

2. The applicant shall not change, transfer and sell the valuable properties to anybody until further orders.
3. The Investigating Officer shall take photos of the valuable properties and produce the same along with mahazar to the court.

Sd/-

PRL. SESSIONS JUDGE, KOLAR.