

**ORDERS ON APPLICATION UNDER  
SECTION 503 OF B.N.S.S.**

Sri. G.V.N. advocate filed vakalat for applicant along with application under section 503 of B.N.S.S. for release of gold element i.e. 80 grams 240 milligram shown in P.F. No.61/2024 dated 08-07-2024.

2. In the application the the applicant has stated that the seized gold belongs to him. He is in need of said gold element. He is ready to abide by any condition that may be imposed by this Court. Hence, prays to allow the application.

3. The prosecution has opposed the application by filling objections denying the averments of the application and stated that applicant has not produced any documents regarding the ownership of the gold element, hence chance of claiming rival claimant this gold element. If the gold element is released to the claimant he may not produce the same before the court when it required and also he may sale the said element. The applicants may change the outlook of the element in order to destroy the prosecution evidence and prayed to reject the application.

4. Heard the arguments.

5. The following points arise for my consideration:

1. Whether the applicant is entitled for interim custody of the gold element i.e. 80 Grams 280 milligrams shown in P.F.No.61/2024 ?
2. What Order ?

6. My answer on the above points are as follows:

Point No.1: In the **Affirmative**.

Point No.2: As per final order,  
for the following:

### **REASONS**

7. **Point No.1:** The Karwar Town police have registered case against the accused persons for the offence punishable under section 380 and 457 of I.P.C. and after completion of the investigation, submitted charge sheet to the Court.

8. During the course of investigation, the Karwar Town police have arrested the accused persons and recovered gold ornaments i.e. one gold element weighing 80 Gram 240 milligrams under Mahazar and reported the same to the Court.

9. The applicant is first informant and claiming the item No.1 of P.F. No.61/2024. In order to substantiate the same, the applicant has produced notarized copy of Bill No.008

and No.049. These documents would indicate that the applicant has purchased Mangalsutra, long necklace, chain, jumakhi, earring chain, bangles, finger ring. In the application the applicant has stated that he is ready to abide the conditions that may be imposed by this Court.

10. As per the averments of the FIS it shows that on 30-06-2024 there was theft in the house of the applicant and thieves had taken away the gold ornaments i.e. 40 grams of Mangalsutra, 30 grams of long chain, 5 grams of chain, 0.75 grams of jumakhi, 5 grams of earrings, 30 grams of bangles, 5 grams finger ring and cash of Rs.1,30,000/-. On perusal of the mahazar conducted by the police it shows that the accused No.4 sold the ornaments at Daivajna Jewelers and police have enquired the owner of the said jewelry shop and he has stated that the accused No.4 has sold the gold ornaments stating that he is need of money and after purchase of the said ornaments he nuggeted it and accordingly police have seized 80 grams 240 milligrams nugget from the Daivajna Jewelers under mahazar and submitted P.F. No.61/2024. Therefore it shows that though the applicant has filed FIS stating that thieves had taken away the golden ornaments, but when the police have seized same was smelted.

11. It is well settled position of law that owner is entitle to interim custody of the property lost by him/her. Though the prosecution has taken contention in the objections that there may be rival claimants. On perusal of the police records it shows that police have seized gold nugget on 08-07-2024 and after completion of the investigation police have submitted charge sheet to the court, but no one has claimed ownership over the said gold nugget. At this stage there are no any rival claimants. The apprehension of the prosecution and Investigating Officer can be taken care by imposing some suitable conditions on the applicant. Under such circumstances, if the said gold nugget shown in PF No.61/2024 is given to the interim custody of the applicant by imposing stringent conditions, it would meet the ends of justice, accordingly Point No.1 in the **Affirmative**.

12. **Point No.2:** In view of my findings on point No.1, I proceed to pass the following:

**ORDER**

The application filed by the applicant under section 503 of B.N.S.S. is hereby allowed.

The gold nugget weighing 80 grams 240 milligram shown in P.F. No.61/2024

dated 08-07-2024 is ordered to be released to the interim custody of the applicant, till the disposal of this case with following conditions:

1. The applicant shall execute indemnity bond for Rs.8,00,000/-. With one surety of likesum.
2. The applicant shall not sell, alter and identity of the gold nugget till final adjudication of the case.
3. The applicant shall produce the said gold nugget before the Court at the time of evidence and whenever the Court directed to do so.
4. The I.O is directed to draw the mahazar while handing over the above said 80 Grams 240 Milligrams of gold nugget to the applicant and also to furnish the photos of the gold nugget in all the angles with C.D. at the expenses of the applicant.

**Chief Judicial Magistrate,  
Karwar.**

