

MHKO070011692026 	<u>Cri. M. A. No. 92/2026</u> Shri. Kutub Habib Shaikh Vs. State of Maharashtra (P. S. Shirol)
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This is an application under Section 497 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for release of golden ornaments and cash of Rs.20,000/-. It is the contention of applicant that, **gold earrings weighted 2 gram, gold chain weighted 3 gram, gold heart shaped pendant weighted 2 gram, topes weighted 3 gram and cash of Rs.20,000/-** seized by police handed over to applicant till disposal of proceeding in the crime. (hereinafter referred as the said gold article).

2] It is contention of applicant **Kutub Habib Shaikh** that, he had purchased some articles for her wife and some of the articles were received as gift at the time of the child's naming ceremonies. The thieves have stolen the said gold articles and money, therefore, applicant filed complaint to Police Station. The police has seized aforesaid muddemal. The Police Station **Shirol** seized the said articles in C.R.No.153/2026. Hence, he submitted that, regarding aforesaid gold articles and money he is entitled for its possession. He has further stated that, he is ready to abide conditions which may be imposed by this Court. Therefore, the applicant prayed to release the aforesaid gold articles and cash to him on conditions.

3] The Learned A.P.P for state filed say and stated that, if seized muddemal returned to the applicant, there is a possibility that it may be sold. Hence prayed for rejection of application.

4] Further, I.O. filed his say and stated that, he has no any objection to the return of the said muddemal on proper terms and conditions.

5] The applicant has filed on record copy of F.I.R. at **Exh.3/1**, birth certificate of the applicants' daughter at **Exh.3/2**, birth certificate of the applicants' son at **Exh.3/3**, photo copy of applicant's Aadhar card at **Exh.3/4**, photo copy of applicant's wife Aadhar card at **Exh.3/5**, photo copy of applicant's son Aadhar card at **Exh.3/6** and photo copy of applicant's daughter Aadhar card at **Exh.3/7**. Applicant filed his affidavit and stated that, the articles seized in the said crime were received as gift at the time of the child's naming ceremonies. Therefore he do not have any bills or receipts available in respect of the said articles.

6] Perused the application and affidavit and say filed by I.O. and APP, documents filed on record. Considering the submission made from the both side. For dealing with the said application that, it is necessary to see, whether the interim custody of the said seized muddemal can be given to the applicant. Considering the submission of the applicant it reveals that, applicant is a rightful claimant of the gold articles and cash.

7] It is settled possession of law that, the gold articles and

cash seized during the investigation should not be kept in the custody of the police unless there is absolute necessity of its custody for the purpose of investigation. As the said muddemal are lying in the police station therefore, there may be chances of damage due to non use and weather changes. Hence, no purpose will serve by keeping seized muddemal in the custody of the police. Hence, it seems proper to give interim custody to the applicant on suitable conditions. Hence, I passed the following order.

ORDER

1. The application is allowed.
2. Interim custody of said property i.e.gold earrings weighted 2 gram, gold chain weighted 3 gram, gold heart shaped pendant weighted 2 gram, topes weighted 3 gram and cash of Rs.20,000/- a seized in connection with Crime No.153/2026 of P. S. Shirol, be given to the applicant of the proceeding in the crime subject to following conditions :
 - (a) The applicant shall execute a bond of Rs.2,50,000/- (Two Lakh Fifty Thousand only) before investigation officer in the said crime at concerned police station.
 - (b) The applicant shall not alienate, transfer or sell the said muddemal without prior to permission of the Court.
 - (c) The applicant shall not make any material changes in the said seized muddemal which will affect its identity and utility.
 - (d) The applicant shall produce the said muddemal as and

when necessary at the time of hearing of matter into the Court.

3. The investigation officer to take appropriate photographs and conduct the detail panchnama if not drawn before and attach, photographs, panchnama and bond along with report.
4. The copy of this order be sent to the Investigating Officer for compliance.
5. The file of this application be kept along with the report in Crime No.153/2026 of the Police Station **Shirol**, if filed.

Date :- 11/08/2026

Place : Jaysingpur

(Smt. P. S. Bhosale)
Judicial Magistrate First Class,
Jaysingpur, Dist.Kolhapur.