

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, BARAMATI.

Sessions Case No.216/2023

State of Maharashtra

Vs.

Sachin Ashok Jagdhane & ors.

: Order below Exh.2 :

(Dated 22th March 2024)

Informant Trupti Sagar Gofne has taken out application under section 451 of the Cr.P.C. for interim custody of seized cash and ornaments. Informant has given description of said cash of Rs.62,08,500/- and gold and silver ornaments in tabular form in para No.3 of the application. Informant stated that the aforesaid cash and ornaments are owned by her and her family members and same are robbed by the accused. The said articles and cash are recovered from the accused. She further stated that on 23.3.2023 she entered into an agreement to sell of property wherein she received cash of Rs.20,00,000/- from Appasaheb Pawar. She further stated that she received Rs.15,50,000/- and Rs. 5,00,000/- through RTGS from partners of Sainath Developers, a firm run by husband of informant. She further stated that one of the partner namely Rushikesh Sabale has withdrawn Rs. 20,00,000/- from bank and it was kept in the house of informant for their business. She further stated that one of the partner namely Sagar Popat Kumbar has withdrawn Rs. 13,00,000/- from bank and it was kept in the house of informant for their business. She further stated that the capital amount of Sainath Developers Rs.22,00,000/- was also kept in the house of informant. She further stated that total amount of

Rs.95,50,000/- was in the house of informant and same was robbed by the accused. Said amount and ornaments are recovered from the accused, so, it is prayed to give custody of the said cash and ornaments to the informant.

02 Investigation officer and ld. APP vide Say at Exh. 13 gave no objection to handover the said cash and ornaments to the informant on verification of the documents.

03 Income Tax Department vide say at Exh. 33 informed that from the I.T.R. of the Sagar Shivaji Gofne, i.e. husband of the informant, the income of the said assessee does not commensurate with the investment made in the jewelry and other articles. They further informed that necessary action as per Income Tax Act shall be taken.

04 Accused Nos. 1 to 5 vide their say at Exh. 36 to 39 stated that they have no concerned with the present case and property therein.

05 Heard ld. advocate Shri V. M. More for the informant-applicant, ld. APP Shri Wasekar and Representative of Income Tax Department.

06 Ld. advocate for the informant-applicant drew my attention on various ornaments purchase receipts and thereby submitted that as per the said receipts the seized ornaments are owned by the informant and her family members. He further reiterated the contentions in the application to give the explanation about the availability of cash of Rs.95,50,000/- in the house of informant. He further submitted that the

husband of the informant is Income Tax Payer and the I.T.R. shows that he is paying the Income Tax on his income, so, there is no question of evasion of the tax. At last, he prayed to allow the application.

07 Ld. APP and Income Tax Department submitted that the cash amount and ornaments are not disclosed in the Income Tax Return by the informant and her family members, therefore, inquiry in that regard is to be held by the Income Tax Department, so said property shall not be returned till completion of said inquiry.

08 I have gone through submission of both the parties and documents on record.

09 On bare perusal of FIR and supplementary statement of informant dated 22.4.2023 it is disclosed that ornaments and cash, which are given in following tabular format, were stolen away from the house of informant.

Sr.No.	Description of Property	Value of Property
1.	Gold Rimzim Chain of 10 Tola	Rs.6,00,000/-
2.	Gold Mini Ganthan of 1.5 Tola	Rs.90,000/-
3.	Gold Chain of 3 gm	Rs.18,000/-
4.	Gold Ear Kudi of 2 gm	Rs.12,000/-
5.	Gold Ring of 3 gm	Rs.18,000/-
6.	Gold Mani of 2 gm	Rs.12,000/-
7.	Cash	Rs.55,30000/-
8.	Mobile of Oppo Company	Rs.8000/-
9.	Mobile of Apple Company	Rs.25,000/-
10.	Mobile of Oppo Company	Rs.2000/-
11.	Silver Painjan	Rs.3,000/-
12.	Silver Painjan	Rs.1,500/-
13.	Silver Jodvi	Rs.400/-
14.	Silver Ring	Rs.400/-
15.	Gold Chain of 4 Tola	Rs.2,00,000/-
16.	Gold Vati Ganthan of 1.5 Tola	Rs.90,000/-

17.	Gold Chain with Ganpati Pendant of 1 Tola	Rs.60,000/-
18.	Ear Ring	Rs.12,000/-
19.	Gold Ring with Pushkaraj Stone	Rs.22,000/-
20.	Ear ring / Thushi	Rs.20,000/-
21.	Cash	Rs.40,00,000/-

10 Investigation Officer arrested the accused and recovered the cash and ornaments as per description of property in charge-sheet from the accused.

11 Informant has produced purchase receipts of ornaments, from which it transpires that the ornaments described in FIR dated 22.4.2023 and supplementary statement dated 22.4.2023 of informant are owned by the informant. Said ornaments except *mani* of 2 grams are stated to be recovered from accused. As the purchase receipts show that informant and her family members are owners of the said ornaments, therefore, they are entitled to get custody of the said ornaments.

12 Informant stated that cash of Rs.95,50,000/- is also stolen away from her house. The investigation officer has seized cash of Rs.62,08,500/- and some ornaments which are alleged to be purchased by accused from the stolen amount, from the possession of accused. The informant tried to give explanation of such a huge amount in her house. However, the I.T.R. of husband of informant do not corresponds with the said amount. Thus, prima facie said amount is seems to be an unaccounted amount. Section 132-A(1) (c) of the Income Tax Act,1961 empowered the Income Tax Authority to make requisition for taking over possession or control of assets which are not disclosed for the purpose of Indian Income Tax Act, 1922. Here in present case, cash of Rs.95,50,000/- is stated to be stolen away from the house of informant.

As stated supra, there is no satisfactory explanation of possessing such a huge cash, therefore, in view of Section 132-A of Income Tax Act, said amount is required to be assessed for effective implementation of Income Tax Act, so it is not just release the said amount and the ornaments which are alleged to be purchased by accused from the stolen amount, in favour of the informant till the Income Tax Department complete the assessment proceeding in respect of said undisclosed cash. Hence, the order :

ORDER

- 1] Application (Exh.02) is partly allowed.
- 2] The PSO **Baramati Taluka police station** is directed to release ornaments in following tabular format in Crime No. **224/2023** on executing supurtnama bond of **Rs. 13,00,000/-** (Rs. Thirteen lakhs only) by the informant Trupti Sagar Gofne in his favour.

Sr.No.	Description of Property	Value of Property
1.	Gold Rimzim Chain of 10 Tola	Rs.6,00,000/-
2.	Gold Mini Ganthan of 1.5 Tola	Rs.90,000/-
3.	Gold Chain of 3 gm	Rs.18,000/-
4.	Gold Ear Kudi of 2 gm	Rs.12,000/-
5.	Gold Ring of 3 gm	Rs.18,000/-
6.	Silver Painjan	Rs.3,000/-
7.	Silver Painjan	Rs.1,500/-
8.	Silver Jodvi	Rs.400/-
9.	Silver Ring	Rs.400/-
10.	Gold Chain of 4 Tola	Rs.2,00,000/-
11.	Gold Vati Ganthan of 1.5 Tola	Rs.90,000/-
12.	Gold Chain with Ganpati Pendant of 1 Tola	Rs.60,000/-
13.	Ear Ring	Rs.12,000/-
14.	Gold Ring with Pushkaraj Stone	Rs.22,000/-
15.	Ear ring / Thushi	Rs.20,000/-

- 3] The informant to give undertaking not to alienate or sell the said ornaments or change their nature in any manner, till the disposal of the present crime.

- 4] Prior to releasing the said ornaments, the informant shall take their photographs at her own expenses and hand it over to the I.O. to be filed with the charge-sheet.
- 5] The prayer in respect of cash of Rs. Rs.62,08,500/- and other ornaments is rejected.
- 6] Cash Rs.62,08,500/- and remaining ornaments, which are not mentioned in Para No.2 of said Operative order shall be released in favour of the Director/Income Tax Officer, Income Tax Department, Pune for the purpose of assessment proceeding in respect of said cash and ornaments. Said Department shall endure to complete said proceeding within a six month and submit report.
- 7] Inform accordingly to the concerned police station.

Baramati.
Date : 22.03.2024

(J.A. Shaikh)
Additional Sessions Judge, Baramati.

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Name of Steno. :- Bhavsar, Grade -3 Steno.
Court Name :- J.A. Shaikh
Additional Sessions Judge, Baramati
Date :- 22.03.2024
order signed by P.O. on :- 27.03.2024
order uploaded on :- 28.03.2024