

ORDER PASSED BELOW EXH. 16

1. The present application is filed by the applicant **Mr. Uttam Nandkumar Lonkar** for return of,

- i) One Gold Ear rings of 3 gm.
- ii) One Gold Small Chain of 3 tola.
- iii) One Gold Big Chain of 3 tola.
- iv) One Silver Painjan
- v) One Silver Challa
- vi) One Silver Ring and Jodave

The applicant avers that, the said gold and silver ornaments were seized by Dehuroad police station in C.R. No. 325/2021 for the offence under Section 454 & 380 of Indian Penal Code.

2. By this application applicant claims above mentioned gold and silver ornaments, as he need the same for his family members day to day use. The Advocate for the applicant submitted that, if the said ornaments are kept idle at Police Station it may lost. The applicant is ready to abide by the conditions if any. Hence, he prayed for return of above mentioned gold and silver ornaments.

3. Ld. APP. has objected that, as per memorandum panchanama dated 20.06.2021 article Sr. No. 1 & 2 only are seized and remaining ornaments mentioned in this application are not recovered. The seized ornaments will be required for identification during trial and thereby objected to return them and remaining have not been seized by I.O. to no question remains to return them. Hence, application is objected.

4. Perused the application, say filed by Learned APP and accsued along with the documents filed on record. Heard both the parties.

5. It is significant to note that, the applicant lodged report in the police station and during investigation ornaments at Sr. No. 1 & 2 only

came to be seized as per memorandum panchnama. The other ornaments are not recovered. The charge sheet is filed and till today accused or any other person have not claim said ornaments. It is well settled that, while deciding application under Section 451 & 457 of Cr. P.C. the question of entitlement of possession is paramount rather the title. There is no claimant except the applicant and prima facie it is made that, applicant is entitled for its interim custody.

6. Even otherwise, in view of Judgment of Hon'ble Supreme Court of India *Sunderbhai Ambalal Desai Vs. State of Gujrat 2002 Supp(3) SCR 39*, I am of the opinion that, there is no necessity to keep the seized articles in the custody of the police station merely for the purpose of evidence if proper panchnama is carried out. Hence, I proceed to pass the following order.

ORDER

- (1) Application is allowed.
- (2) The interim custody of, One Rani Haar of 20 gms. and Ear rings of 3 gms. seized by police in C.R. No. 325/2021, be handed over in favour of the applicant **Mr. Uttam Nandkumar Lonkar** on his executing bond of Supurtnama Bond (Indemnity Bond) of **Rs. 1,20,000/- (Rupees One Lakh Twnety Thousand Only)** with following conditions :-
 - (a) He shall not dispose of the said gold ornaments by transfer, mortgage, sale or by any other means without the prior permission of the court.
 - (b) He shall produce the said gold ornaments as and when required by the Court or police.
 - (c) He shall not change the colour, nature or description of the said gold ornaments.

- (d) He shall maintain and preserve said gold ornaments in all respect during pendency of trial.
- (3) The concern Investigating Officer is directed to **check the purity of aforesaid gold ornaments from the registered Jewellers along with its certificate** and he is further directed to prepare detail panchnama describing its particulars, quantity and weight and to take photographs of the same, before handing over its interim custody to the applicant.
- (4) The copy of said panchnama and photographs be filed in the instant matter.
- (5) Bond before this Court.

Date: 16/08/2023

(A. S. Agrawal)
6th Jt. Judicial Magistrate First Class
Vadgaon Maval, Pune.

C E R T I F I C A T E

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	G. B. Mitha,
Name of the Court	Shri. A. S. Agrawal, 6 th Jt. C.J.J.D. & J.M.F.C., Vadgaon Maval
Date of Order & Judgment	16/08/2023
Order/Judgment Signed by the P.O. On	16/08/2023
Judgment/Order uploaded on	16/08/2023