

CNR No :- MHSI100001212024



:-Regular Criminal Case No.10 of 2024:-

:- Order below Exh. No. 09 :-

This is an application under section 497 of Bharatiya Nagarik Suraksha Sanhita, filed by the applicant Sou. Rasika Suraj Gawas, R/o. Mangeli, Talewadi, Tal. Dodamarg, Dist. Sindhudurg, at present R/o. Flat No. 304, Lotus Apartment, Vidyavihar Coloney, Talegaon, Dabhade, Pune for interim custody of gold ornaments. It is contended by the applicant that, golden articles as more particularly mentioned at Sr. No. a to j were stolen by unknown person from motor cycle No. GA-03-AQ-9559. She lodged FIR vide Cr. R. No. 27/2024 Dtd.24.03.2024 against unknown person. Thereafter police recovered the stolen ornaments from Rameshwar Keshav Mhalasekar. That, the articles are valuable and are required by the applicant for her personal use. It will take long time to dispose off the matter. It is further contended that, if the seized articles are given in her interim custody, she will abide all terms and conditions imposed upon her by the Hon'ble Court and will produce the articles as when required by the Court. Thus, the applicant prayed for the interim custody of the articles on indemnity bond.

02. Say of APP, IO and Accused was called on this application.

03. Ld. APP and IO filed their say at EXH-11 and contended that, the seized gold ornaments may be given in the

custody of applicant by imposing necessary conditions. The say was called by issuing the notice, however the accused could not be served with the Notice.

04. Heard Ld. APP and Ld. Advocate for the applicant. Perused the case file and the documents on record.

05. The applicant has produced on record that, photocopy of FIR at EXH 10/1, photocopy of bill of Mangalsutra at EXH-10/2, photocopy of bill of 6 Grm Mangalsutra at EXH-4/3, photocopy of bill of gold Earrings, gold necklace, gold ring etc. On perusal of the same, it is seen that the relatives of applicant purchased the said gold ornaments. Till today, except the applicant, no other person has claimed for these ornaments.

06. At this juncture it is necessary to refer the decision of Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat, reported in AIR 2003, SC 638** wherein it is observed that, the custody of such muddemal shall be handed over to the concern person without delay by taking necessary security. It can be seen that, the articles at Sr. No. f to g i.e. Noseri (1Grm), Canon 1500 D Camara, smart watch and Redmi -6A mobile phone are not produced along with the charge-sheet. Considering the same, the applicant (informant) can be granted interim custody of articles a to e i.e. a) golden Mangalsutra weighting 31.90 Gram, b) golden Mangalsutra weighting 6.200 Grm, c) golden Earrings weighting 3 Gram, d) golden Necklace weighting 10.700 Grm, e) golden ring weighting 4 Grm. If the gold ornaments is kept unused

and unattended then, it will get damaged. The Applicant have filed the bills and affidavit in support of her claim at EXH-12 on record. The applicant has stated in the application that, she is ready to abide the conditions if any, imposed by the Court. So also these gold ornaments are not claimed by any other person. The ornaments cannot be kept in to Court for longer period. Therefore, if the above said gold ornaments are given in the custody of the applicant on certain conditions, then the purpose of trial can be very well served. By taking into consideration all these facts, I proceed to pass the following :-

:- ORDER :-

01. The application is partly allowed.
02. Interim custody of vehicle of a) golden Mangalsutra weighting 31.90 Gram, b) golden Mangalsutra weighting 6.200 Grm, c) golden Earrings weighting 3 Gram, d) golden Necklace weighting 10.700 Grm, e) golden ring weighting 4 Grm be given to the applicant Sou. Rasika Suraj Gawas on execution of indemnity bond in the sum of Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand Only) till further orders on following conditions :-
 - a) That the applicant shall not use or permit to use the gold ornaments for any illegal purpose or in any manner likely to reduce its value;
 - b) She shall keep the gold ornaments in good

condition and shall not alter its nature;

- c) She shall not, in any way, transfer ownership of the said ornaments to any third person;
- d) She shall produce the gold ornaments before the Court and shall make it available as and when required.

Place : Dodamarg
Date : 09.10.2024.

(Y. P. Bavkar)
Judicial Magistrate First Class,
Dodamarg.