



Cri.M.A. No. 55/2026
Chandrakant Laxman Rathod
Vs.
State of Maharashtra
CNR No. MHSO150004502026

Order below Exh.1

1. Applicant *Chandrakant Laxman Rathod, R/o., Sangdari, Tal. South Solapur, Dist. Solapur* has filed present application for the return of gold ornament i.e. **gold necklace of 15 grams worth Rs.35,000/-** which is more particularly described in para No.2 of the present application (in short “seized gold ornament”) seized by Valsang police station in the Crime No.347/2021
2. The applicant contends that, the applicant is the lawful owner of the seized gold necklace, which was stolen from his house and later recovered during investigation in Crime No347/2021. The said property was gifted by the applicant to his wife at the time of marriage and forms part of their personal belongings. The stolen property included a gold necklace of 15 grams, which was gifted by the applicant to his wife Ratnaprabha at the time of their marriage, and a pair of gold flower earrings weighing about 8 grams, along with other household articles. The applicant lodged a complaint at Valsang Police Station, on the basis of which Crime No. 347/2021 came to be registered under Sections 457 and 380 of the Indian Penal Code. If seized property is not released, its value will diminish. The applicant is ready to comply with any conditions of the Court and therefore prays for return of the ornament on bond.
3. A.P.P. filled her say and contending that there is possibility of alienation, making any changes in original structure, if return to applicant. Purchaser of said ornament is different one which reflect from receipt of Jeweler. There is possibility to create third party interest. Lastly, he prayed to reject the application. The I.O. has filed his say and contended that, they have no objection to hand over the seized gold ornament to the applicant on terms and condition.

4. The learned Advocate for the applicant argued that the gold ornament was purchased by the applicant for his wife at the time of marriage. The applicant is now 71 years old aged person, and purchase receipt is not available with them. He has filed affidavit to that regard. Ld. Advocate further argued that, though A summary report was accpeted by the Court, applicant can not be deprived from his right to take custody of his gold ornament, which was theft in C.R. No. 347/2021. He relied upon the authority of Hon'ble Guhati High Court in a matter The State of Asam & Ors. Vs. Ram Shankar Maurya, wherein in para no.44 of the judgment Hon'ble High Court observed that, the fact that the Hon'ble Supreme Court has given a direction to the lo Criminal Court to consider release of seized property/articles at the investigation under Section 457 Cr.P.C, shows that Section 457 Cr.P.C. can be applied by the Cr Court at the investigation stage for release of seized property. The submission made by the counsel for the appellant that the judgment of the Apex Court in Ram Prakash Sharma (supra) did not deliberate on the scope of Section 457 Cr.P.C, for granting custody of seized property at the stage of investigation cannot be accepted by us. While different situations and circumstances could arise in respect of seized property, one situation that can arise is when the police submit a final negative report and the police authorities fail to release custody of the seized property in terms of Section 102 Cr.P.C. In that case, there would be no remedy for the aggrieved person, except to approach the High Court under Section 482 Cr.P.C or Article 226 of the Constitution, which would be a difficult task for people living in far flung areas and those belonging to the weaker sections of society. In that event. Section 457 Cr.P.C would become redundant. After considering the decisions of the Apex Court and the various High Courts alongwith Section 457 Cr.P.C. we are of the considered opinion that the words " and such property is not produced before a Criminal Court during an inquiry or trial ", appearing in sub-Section (1) of Section 457 Cr.P.C, cannot be restricted to mean that the stage of inquiry or trial is a condition precedent, for a Court to have jurisdiction for exercising power under Section 457 Cr.P.C. at the investigation stage. We are of the view that the words " and such property is not produced before a Criminal Court during the inquiry or trial " appearing in Section 457(1) Cr.P.C would have to be considered to be a reference to a stage of investigation and not the stage of inquiry or trial.

Further, we are bound by the decision of the Apex Court in Ram Prakash Sharma (supra), in terms of Article 141 of the Constitution of India. as it is the mandate of the Constitution that the law declared by the Supreme Court shall be binding on all Courts within the territory of India. Also, in the case of Anil Kumar Neotia vs. Union of India & Others, reported in AIR 1988 SC 1353, it has been held that the High Court cannot question the correctness of the decision of the Supreme Court, even though the points stated before the High Court were not considered by the Supreme Court. 45. In view of the reasons stated above, we answer the reference by holding that at the investigation stage, seized articles cannot be released by a Court under Section 451 Cr.P.C. However, under Section 457 Cr.P.C., the Criminal Court has the jurisdiction to give custody of seized property/articles at the stage of investigation, when those seized property are not produced before the Court. 46. The reference is answered accordingly and the matters may be placed before the appropriate Bench.

5. In support of his contention, he has filed an affidavit on record. No trial has been taken place due to acceptance of A summary report, but the gold ornament seized by the local crime branch, while investigating the another matter. From the affidavit and seizure report filed in that crime discloses, applicant is a rightful owner. In view of aforesaid cited (Supra) acceptance of closer report does not divest the magistrate jurisdiction to pass order regarding the disposal or seized property. Further, the property was seized during the investigation by local crime branch. No purpose would be served by retaining custody of the Gold ornament with police. The property should not be remained in the custody court/police unnecessarily. Therefore, it is necessary to return the seized gold ornament to rightful owner. Therefore, taking into consideration the affidavit and the value of the seized gold ornament, custody of the same can be granted by imposing appropriate conditions. Hence, I proceed to pass following order.

ORDER

1. Application is hereby allowed.
2. The *gold ornament i.e. gold necklace of 15 grams worth Rs.35,000/-* be released in favour of the applicant viz.

Chandrakant Laxman Rathod, R/o., Sangdari, Tal. South Solapur, Dist. Solapur on his executing the indemnity bond of Rs.2,00,000/- (Rs. Two Lakh only) on the following terms and conditions;

- (a) The applicant shall not change colour and physical features of the seized gold ornament except repairs.
 - (b) The applicant shall not alienate or create any extra charge upon the seized gold ornament.
 - (c) The applicant is directed to produce seized golden ornaments before the Court as and when directed.
3. The I.O. is directed to take the photographs of the seized gold ornament in order to establish its identity during the trial and I.O. shall prepare the panchnama of the handing over it to the applicant. Said panchnama shall be attested by the applicant and shall be part and parcel of the charge-sheet, if filed.
 4. The I.O. is directed to take the Supurtnama from the applicant.
 5. The order be informed to the I.O.
 6. One copy of this order be kept with A-summary report.

Place - Akkalkot
Date - 09/04/2026

(N. A. L. Shaikh)
Judicial Magistrate First Class,
Akkalkot.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same word to word as per the original Judgment/order :-

- a) **Name of the Stenographer** :- V. S. Kamble
- b) **Court** :- Jt. Civil Judge Junior Division and
Judicial Magistrate First Class,
Akkalkot.
- c) **Judgment/Order signed by PO on** :- 09/04/2026
- d) **Judgment/Order uploaded on** :- 09/04/2026