

Order below application for return of property

1. On going through record, it appears that, applicant Ganesh Ramesh Jadhav has filed this application for return of property i.e. cash of Rs.15,90,000/-.
2. It is contended that, accused person in furtherance of their common intention cheated to complainant without delivering gold biscuit after receipt of an amount of Rs.24,50,000/- on the assurance to give gold biscuit at less price. During investigation police seized Rs.15,90,000/- and said amount is claimed by complainant on the basis of ownership.
3. On this application say of I.O., accused, and Ld. APP was called. I.O. has given no objection to hand over the custody of amount to applicant. However, Ld.APP strongly objected to hand over the custody of amount on the ground that amount is subject matter of the case and required at the time of trial. Accused No.2 and 3 submitted that seized amount born out of sale of room No.3, at Shaikh Chawl, Kureshi Nagar, Kurla (East), Mumbai and belongs to him. Hence, he prayed for rejection of this application.
4. On going through rival submission it reveals that, complainant / applicant has not shown source of income or source of collection of Rs.24,50,000/-. He just filed affidavit and copy of FIR. There is no document on record to show that applicant has collected

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above said amount and paid it to the accused persons. Moreover, the accused persons also claimed the seized amount being owner of the same. Say of I.O. also discloses

that there are many cases pending against the accused persons, therefore, at this stage it is difficult to determine entitlement of seized amount. For deciding entitlement necessary evidence is required, therefore, application is liable to be rejected by following order :-

ORDER

The application is rejected.

-sd/-

(S. K. Mungilwar)
Addl. Chief Metropolitan Magistrate,
9th Court, Bandra, Mumbai

Dt.02/01/2019