



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3521]**

MONDAY, THE NINTH DAY OF MARCH  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

**CRIMINAL PETITION NO: 1908/2026**

**Between:**

1. SUTRAVE BALAKSIHAN, S/O. DIGAMBARA RAO, AGED 55 YEARS, OCCUPATION BUSINESS, R/O. D.NO. 12-11-T59, BOUDHA NAGAR, VARASIGUDA, HYDERABAD.
2. SHRI SHYAM BABA JEWELLERS PVT LTD, HYDERABAD REP. BY ITD DIRECTOR AND AUTHORIZED SIGNATGORYRITESH AGARWAL, S/O. SURESH KUMAR AGARWAL, R/O. D.NO. 19-1-912/A/25/1, MURALI NAGAR, BAHADURPURA, HYDERABAD.

**...PETITIONER/PETITIONER(S)**

**AND**

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P. BUILDINGS, NELAPADU, AMARAVATHI, GUNTUR DISTRICT.
2. THE STATION HOUSE OFFICER, JAGGAIHPETA POLICE STATION, KRISHNA DISTRICT.

**...RESPONDENT/COMPLAINANT(S)**

3. JITESH AWADHWAL, S/O. DURGA SNKAR AWADHWAL, AGED 50 YEARS, R/O. D.NO. MIG 11, HOUSING BOARD COLONY, AKBAR ROAD, SEONI, MADHYA PRADESH.

**...RESPONDENT/ACCUSED:**

**Counsel for the Petitioner/accused(S):**

- 1.MALLAVOLU NIKITHA
- 2.Mallavolu Nikitha

**Counsel for the Respondent/complainant(S):**

- 1.PUBLIC PROSECUTOR

**The Court made the following:****ORDER:**

The Criminal Petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.,')/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS') seeking modification of Condition No.2 of the order dated 07.01.2026 in Crl.M.P.No.2008 of 2025 in Crime No.3 of 2025, passed by the learned Additional Judicial First Class Magistrate, Jaggaihpeta (for brevity, 'the learned Trial Court'), to permit Petitioner No.2 to sell, alter, or otherwise deal with the jewelry kept in interim custody in the regular course of business, and to direct the learned Trial Court to accept certified photographs and panchanama as sufficient secondary evidence in place of the physical ornaments.

2. Heard learned counsel for the Petitioners and the learned Assistant Public Prosecutor. Perused the record.

3. Respondent No.3/Accused is not required to be heard, as the impugned order itself reveals that he has no objection for the return of the property to the Petitioners. Therefore, Respondent No.3/Accused is a mere proforma party.

4. The 'learned Trial Court', by order dated 07.01.2026 in CrI.M.P.No.2008 of 2025 in Crime No.3 of 2025, granted the disputed gold ornaments to the temporary custody of the Petitioners subject to the following conditions:

1. The Petitioner/Owner of the above said Gold, weight of 1652.100 Gms shall execute bond of a personal Rs.2,00,00,000/- (Rupees Two Crores only) with two sureties.
2. The Petitioner/Owner of the property is also directed not to sell away or hypothecate the above said Gold and not to alter the said property.
3. The Petitioner/Owner is also directed to produce the said Gold as and when directed by this Hon'ble Court.
4. The Station House Officer, Jaggaiahpet Police Station is directed to return back the property for interim custody to the owner of the property on due identification and acknowledgment.
5. The Station House Officer, Jaggaiahpet Police Station is directed to conduct panchanama with two mediators and take the photographs prior to release the property and submit the same to this Court.

5. The Hon'ble Apex Court in **Sunderbhai Ambalal Desai v. State of Gujarat**<sup>1</sup>, gave certain guidelines regarding the granting of temporary custody of property to claimants, wherein at paragraph Nos.7 and 17 as under:

*"7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:*

- 1. owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. court or the police would not be required to keep the article in safe custody;*
- 3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its*

---

<sup>1</sup> (2002) 10 SCC 283

*production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*

*4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.*

*17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.”*

6. Ms. M.Nikitha, the learned counsel for the Petitioners, relied on the judgment of the High Court of Karnataka in **K.W. Ganapathy v. State of Karnataka**<sup>2</sup> dated 11.06.2022 wherein at paragraph No.5, it is held as under:

*“5. The production of property which has evidentiary value during evidence is a part of a fair trial. With the advanced technology, it is not necessary that the original of the property inevitably has to be preserved for the purpose of evidence in the changed context of times. The reception of secondary evidence is permitted in law. The techniques of photography and photo copying are far advanced and fully developed. Movable property of any nature can be a subject matter of photography and taking necessary photographs of all the features of the property clearly is not a impossible task in photography and photo copying. Besides, the mahazar could be drawn clearly describing the features and dimensions of the movable properties which are subject matters of criminal trial. Many a time, we find as a routine course, the Courts impose condition of non alienation and to keep the property intact without alteration in any manner. Many a time such conditions act harshly upon rightful owners of the property from exercising their lawful ownership rights.”*

7. The seized property constitutes the working capital of Respondent No.2, who is engaged in jewellery business. Keeping the ornaments idle would cripple the business. If photographs, videography, and panchanama are prepared under proper supervision, no prejudice will be caused to the prosecution, particularly since Respondent No.3 does not claim ownership.

---

<sup>2</sup>2002 SCC OnLine Kar 320

8. Considering the facts and circumstances of the case, the Petitioners shall execute a personal bond for Rs.2,00,00,000/- (Rupees Two Crores only) with two sureties and conditions Nos.2 & 3 imposed by the learned Magistrate are relaxed.

9. The learned Magistrate is directed to scrupulously follow the judgment of the Hon'ble Apex Court in **Sunderbhai Ambalal Desai** *supra*. Remaining conditions imposed earlier by the learned Magistrate shall remain in force and must be strictly adhered to in line with the principles laid down therein.

10. Accordingly, the Criminal Petition is disposed of.

As a sequel, miscellaneous petitions, if any pending, shall stand closed.

---

**DR. Y. LAKSHMANA RAO, J**

Date: 09.03.2026  
PRA

17

**THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO**

**CRIMINAL PETITION No.1908 of 2026**

Date:09.03.2026

PRA