



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLREV No.320 of 2026**  
**CNR No. ODHC010322832026**

**Dipalika Mohanty**

.... **Petitioner**  
Mr. M.R. Dhal, Advocate

-Versus-

**State of Odisha and another**

.... **Opposite Parties**  
Mr. M.K. Mohanty, ASC

**CORAM:**  
**MR. JUSTICE R.K. PATTANAIAK**

**ORDER**  
**19.08.2026**

**Order No.**

04.

1. Heard Mr. Dhal, learned counsel for petitioner and Mr. Mohanty, learned ASC for the State.
2. Notice to opposite party No.2 received back with a postal report 'Item Delivered (Addressee)', hence, such service is treated sufficient.
3. Instant revision is filed by the petitioner assailing the impugned order dated 20<sup>th</sup> April, 2026 passed in connection with Criminal Misc. Case No.42 of 2026 by the learned J.M.F.C. (UTP) Court, Cuttack corresponding to G.R. Case No.474 of 2023 further corresponding to Darghabazar P.S. Case No.90 dated 6<sup>th</sup> May, 2023, whereby, an application under Section 457 Cr.P.C read with Section 503 BNSS moved by her seeking interim custody of the seized gold ornaments has been declined and rejected.



4. A copy of the FIR is at Annexure-2 and it reveals registration of a case under Sections 419 and 420 I.P.C. A copy of the seizure memo is at Annexure-3 and the same is perused.

5. Mr. Dhal, learned counsel submits that the original invoices were submitted to the court below claiming ownership in respect of the gold ornaments while demanding interim custody of the same, but still, it has resulted in the passing of impugned order dated 19<sup>th</sup> October, 2023 at Annexure-4. It is further submitted that the petitioner being the rightful claimant is entitled to the custody of the seizure ornaments, hence, the application under Section 457 Cr.P.C. read with Section 503 BNSS but such custody was denied. It is informed to the Court by Mr. Dhal, learned counsel that the further investigation is in progress. It is also informed that upon receiving preliminary chargesheet filed against the petitioner and another by the learned court below, the trial has commenced and the investigation is kept open in terms of Section 173(8) Cr.P.C., but the further submission is that the learned court below ought to have released the interim custody of the seized gold ornaments in favour of the petitioner as she is rightfully entitled to the same having produced the original invoices, the copies of which are Annexure-5, hence, therefore, the impugned order i.e. Annexure-4 is liable to be interfered with and set aside with consequential directions issued.

6. Recorded the submission of Mr. Mohanty, learned ASC for the State and according to him, there is no serious wrong or



error in the impugned order dated 19<sup>th</sup> October, 2023, whereby, the learned court below, in view of the trial commenced, declined release of the seizure ornaments in favour of the petitioner and rejected the application under Section 457 Cr.P.C. read with Section 503 BNSS.

7. The nature of allegations is revealed from the FIR. The gold ornaments have been seized as per the seizure memo dated 2<sup>nd</sup> September, 2023 at Annexure-3. It is made to understand that the ornaments were mortgaged with opposite party No.2 and thereafter, on the complaint lodged with the case registered, the seizure has been made, in respect of which, the interim custody is sought for by the petitioner. It is alleged that with the crime proceed, the petitioner said to have purchased the gold ornaments, hence, the seizure as per Annexure-3. From the original invoices at Annexure-5, it is made to reveal that the gold ornaments were purchased in 2019, whereas, the alleged mischief is of the year 2023 leading to the lodging of the FIR. Mr. Dhal, learned counsel would submit that the petitioner could not have purchased the gold ornaments with any such crime proceed when the alleged transactions took place in 2023 and therefore, it is quite unusual to make seizure of the same as per Annexure-3, which has been lost sight of by the learned court below, while considering the request for its release in terms of Section 457 Cr.P.C. read with Section 503 BNSS, to which, this Court is in agreement but then since the trial is on and further investigation is in continuation, without



expressing anything on merits of the case, is of the humble view that such seizure articles should have been released in the interim custody of the petitioner.

8. Law is well settled that articles seized during investigation should not be retained, unless and until, the same is really necessary for inquiry and trial. The Apex Court in **Sunderbhai Ambalal Desai Vrs. State of Gujarat, (2002) 10 SCC 283** held and observed that a seizure property should ordinarily be released to the rightful owner subject to proper identification and safeguards. Though the decision (supra) has been taken judicial notice of by the learned court below, but ultimately, the request for such release with interim custody of gold ornaments in favour of the petitioner was denied. Since, the investigation vis-à-vis the petitioner is over and the preliminary chargesheet is filed and hence, it can be said that the investigation is final as against her and another accused. Regard being had to the claim of the petitioner on the basis of the original invoices at Annexure-5, this Court reiterates the view that the seizure articles should be handed over to her with proper zima subject to confirmation regarding the rightful claim over the same verifying the invoices with such other conditions imposed as deemed just and proper in the facts and circumstances of the case and accordingly, it is ordered.

9. In the result, the revision stands allowed. As a necessary corollary, the impugned order dated 20<sup>th</sup> April, 2026 at Annexure-1 in Criminal Misc. Case No.42 of 2026 by the



learned J.M.F.C. (UTP) Court, Cuttack arising out of G.R. Case No.474 of 2023 is hereby set aside with a direction to release the gold ornaments in favour of the petitioner as an interim measure subject to verification of the original invoices on its production with suitable conditions imposed upon furnishing an indemnity bond of Rs.1 lac by her.

10. Issue urgent copy of this order as per rules.

**(R.K. Pattanaik)**  
**Judge**

Balaram