

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 1081 of 2026

Reserved on: 29.9.2026

Date of Decision: 08.10.2026.

Ramesh Kumar Gupta

.... Petitioner

Versus

State of HP & ors.

.... Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Mr Jeet Singh, Advocate.

For Respondent No.1/State : Mr Ajit Sharma, Deputy
Advocate General.

For Respondents No.2 & 3 : Nemo.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for setting aside the order dated 25.6.2025, passed by learned Judicial Magistrate First Class, Court No.3, Shimla, vide which the application for release/interim custody of one gold bangle converted into gold pieces recovered during the investigation of FIR No. 6 of 2024, dated 11.1.2024, registered at Police Station

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

Dhalli, District Shimla, for the commission of offences punishable under Sections 454 and 380 of the Indian Penal Code (IPC), was dismissed.

2. Briefly stated, the facts giving rise to the present petition are that the petitioner made a complaint to the police regarding the theft committed in his house on 10.1.2024. The police recovered many gold and silver ornaments connected to the theft. Many recovered articles were released to the petitioner by the learned Magistrate vide order dated 19.1.2024. One gold bangle was sold to respondent No.3, a jeweller, who had converted it into gold pieces and handed over gold pieces measuring 20.34 grams to the Investigating Officer. The petitioner filed an application for the release/interim custody of the melted gold pieces.

3. The learned Magistrate dismissed the application, observing that the bangle could not be connected to the gold pieces recovered by the police. The respondent no. 3 also claimed ownership of the gold pieces, and it cannot be said at this stage that the petitioner is the owner of the gold pieces.

4. Being aggrieved by the order passed by the learned Trial Court, the petitioner has filed the present petition asserting that the learned Trial Court erred in holding that the identity of the gold pieces was not established. The learned Trial Court was not adjudicating the matter finally and was deciding the interim custody. The Court only hands over the custody of the article during the pendency of the proceedings and has the right to terminate the entrustment at any time and call upon the person to whom custody has been provided to hand it over to the Court. No prejudice would have been caused by the release of the gold pieces to the petitioner. Therefore, it was prayed that the present petition be allowed and the order passed by the learned trial Court be set aside.

5. I have heard Mr Jeet Singh, learned counsel for the petitioner/informant and Mr Ajit Sharma, learned Deputy Advocate General, for respondent No. 1–State.

6. Mr Jeet Singh, learned counsel for the petitioner/informant, submitted that the petitioner's gold bangle was stolen. The police arrested the thief and the jeweller. They stated that the bangle was converted into gold pieces. Therefore,

there is no dispute regarding the identity of the gold pieces as having been converted from the petitioner's gold bangle. The Court has to grant interim custody to a party entitled to it. The Court should have ordered the keeping of the gold in the bank locker as per the judgment of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai vs. State of Gujarat*, (2002) 10 SCC 283. The learned Magistrate failed to exercise the jurisdiction vested in him. Therefore, he prayed that the present petition be allowed and the order passed by the learned trial Court be set aside. He relied upon the judgments\ titled *Pradeep Sunta Vs. State of HP & Anr.* 2020:HHC:208 in support of his submission.

7. Mr Ajit Sharma, learned Deputy Advocate General for respondent No. 1–State, submitted that the identity of the gold pieces as having been converted from the bangle is yet to be established. The jeweller filed a reply claiming ownership of the gold, and there was a dispute regarding the ownership. The learned trial Court was justified in rejecting the application at this stage because of the pending dispute between the parties. Hence, he prayed that the present petition be dismissed.

8. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

9. The learned trial Court had passed the order on 25.6.2025, and the present petition was filed before this Court on 22.9.2026, after the lapse of more than one year and four months from the passing of the order. The petition is silent regarding the cause of the delay. It was laid down by the Delhi High Court in *Sanyam Bhushan v. State (NCT of Delhi)*, 2024 SCC OnLine Del 4545, that a person cannot approach the Court for quashing the criminal proceedings after an inordinate delay. It was observed:

“43. At the outset, I find merit in the submission made by the learned counsel for the Complainant that the present set of petitions is liable to be dismissed on the ground of delay and laches, as also for the failure of the petitioners to avail of their alternate efficacious remedy in the form of Revision Petitions under Section 397 of the Cr. P.C.

44. It need not be emphasised that powers under Section 482 of the CrPCs are discretionary in nature, and though there may not be a total ban on the exercise of such power where the situation so warrants, at the same time, there are limitations of self-restraint that are recognised and followed by the Courts in exercising this jurisdiction. One such limitation is where the petitioner had an alternate efficacious remedy; however, they did not avail of the same within the period of limitation and thereafter filed the petition under Section 482 of the Cr. P.C. to overcome the objection of limitation. Similarly, the Courts have refused to entertain a petition under Section 482 of the Cr.

P.C., where it is filed with unexplained delay and laches, and in the meantime, the trial has proceeded.

45. In *Prabhu Chawla* (Supra), the Supreme Court quoted with approval its earlier judgment in *Madhu Limaye* (Supra), wherein it had been held that though the availability of an alternate efficacious remedy of a Revision under Section 397 of the Cr. P.C. does not affect the amplitude of the inherent power under Section 482 of the Cr. P.C. that the High Court possesses; at the same time, easy resort to inherent power is not to be allowed except under compelling circumstances; it should not invade areas set apart for specific power under the Cr. P.C. itself. It was held that while it is true that Section 482 of the Cr. P.C. is pervasive; it should not subvert legal interdicts written into the same Code, such as, for instance, in Section 397(2) of the Cr. P.C.

46. This Court in *Vipin Kumar Gupta* (Supra), placing reliance on its earlier judgment in *Rajesh Chetwal v. State*, *Neutral Citation no. 2011: DHC: 4313*, held that though there is no period of limitation prescribed for filing of a petition under Section 482 of the Cr. P.C., the principles of inordinate delay and laches shall be applicable, and where such petitions are filed with inordinate delay and laches, this itself shall be a ground to dismiss the same.”

10. Therefore, it is impermissible to interfere with the order after the lapse of such an inordinate period.

11. Even otherwise, gold pieces were not stolen, and a bangle was stolen. There is no material on record to show that the gold pieces were obtained after melting the bangle pieces, as claimed in the application. The petitioner and respondent No. 2 were claiming ownership of the gold pieces. The recovery was

effected from respondent No. 2, and not from the petitioner. The custody could have been granted to the petitioner on being satisfied that the gold pieces were obtained after melting the petitioner's bangle. This is a matter for trial and cannot be determined at this stage without leading the evidence.

12. In *Pradeep Sunta* (supra), the currency notes were taken from the claimant, and the cited judgment does not apply to the present case.

13. It was submitted that the learned trial Court should have ordered the deposit of the gold pieces in the bank locker as per the judgment of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai* (supra). The record shows that no such prayer was made before the learned trial Court, and it would be open for the petitioner to make such a prayer before the learned trial Court. Hence, nothing more is required to be said at this stage.

14. Therefore, the learned trial Court had taken a reasonable view while dismissing the application.

15. The petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), which deals with the inherent jurisdiction of the High Court. The inherent

jurisdiction is to be exercised sparingly when the ends of justice require so or the order is necessary to prevent abuse of the process of the Court or secure the ends of justice. In the present case, no such justification has been brought out in the petition, and it is impermissible to quash the order by exercising inherent jurisdiction.

16. In view of the above, the present petition fails and is dismissed.

17. The observations made hereinabove are regarding the disposal of this petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

8th October, 2026
(Chander)