

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 1207 of 2016

Ritesh Kumar Gupta, S/o. Arun Kumar Gupta, Aged About 32 Years, R/o. Sindhi Colony, Gaorela, Police Station Gaorela, Tehsil - Pendra Road, District - Bilaspur Chhattisgarh

---- Petitioner

Versus

State Of Chhattisgarh, Through : Police Station Gaorela, Tehsil - Pendra Road, District - Bilaspur Chhattisgarh

-----Respondents

For Petitioner	: Mr. Ashok Kumar Soni, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

25/08/2017

Heard.

1. It is submitted by the counsel for the petitioner that petitioner has lodged FIR of theft in his place of residence on the basis of which, FIR in Crime No.152/2016 was registered and during the investigation four bangles of gold were recovered and seized. Petitioner moved an application before the Court of Judicial Magistrate First Class, Pendra Road for grant of interim custody of the seized articles, which was rejected on the ground of difference in minor details of the articles of theft and the articles seized.
2. It is submitted that petitioner/complainant has identified the seized articles in test identification parade and prosecution itself is relying on

the documents in the prosecution case. The order of the Judicial Magistrate First Class, Pendra Road was challenged before the Additional Sessions Judge, Pendra Road, by revision petition No.47/2016, which has been dismissed by order dated 01.10.2016. Hence this petition.

3. Counsel for the State has opposed the petition. It is though submitted that petitioner is complainant of the case and the identification of the seized articles done by the petitioner is being relied upon by the prosecution in the case before the trial Court.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considering the submission made and the documents submitted on record, this petition deserves to be allowed with suitable direction.
6. Accordingly, this petition filed under Section 482 of Cr.P.C. is allowed. The order of the trial Court dated 11.07.2016 and order of Revisional Court dated 01.10.2016 are hereby set-aside. Petitioner is directed to file a fresh application before the trial Court making a prayer for grant of interim custody of the seized articles, keeping in view the observations made in this order, the trial Court shall consider the application filed by the petitioner on merits and decide it in accordance with law.
7. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge