

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO. 180 OF 2018**

MOHAN DESSAI

... Petitioner

Versus

STATE OF GOA, THR. THE PI ATTACHED
TO ACB AND ANR

... Respondents

Shri D. Dhond and Shri Vibhav Rajiv Amonkar, Advocate for the petitioner.

Shri Pravin N. Faldessai, Additional Public Prosecutor for the respondents.

**Coram:- NUTAN D. SARDESSAI, J.
Date:- 7th December 2018**

P.C.:

Heard Shri D. Dhond, learned Advocate for the petitioner and Shri P. Faldessai, Additional Public Prosecutor for the respondent – State.

2. It is the contention of Shri Dhond, learned Advocate that the gold belonging to his daughter was also seized in the course of the proceedings initiated against his son-in-law in connection with the offence under Section 7 of the Prevention of Corruption Act, 1988. The gold was in the locker owned by him maintained in the Bank of India, Vasco Branch and in which the gold articles of his wife, son, daughter-in-law apart from his daughter were also kept by him. The articles belonging to his wife, son and daughter-in-law had been released except those belonging to the daughter and

son-in-law who is the accused in the Crime registered under Section 7 of the said Act.

3. It is the contention of Shri Dhond, learned Advocate that the said gold items are required to meet the need of the daughter to attend weddings and related ceremonies and for which the use of the gold is most essential. He assures to produce the gold ornament as and when required by the respondents and also undertakes to furnish an Indemnity Bond to the respondents in the event any case is registered against the accused also for possessing assets disproportionate to his known sources of income. In the circumstances, the gold ornaments of the daughter which are contained in the locker belonging to him be released.

4. Shri P. Faldessai, learned Additional Public Prosecutor on instructions submits that the gold ornaments are required for the purpose of investigating into the Crime against the accused which was registered against him under Section 7 of the Act by conceding at the same time that till date no offence has been registered against the accused for owning assets disproportionate to his known sources of income.

5. Shri P. Faldessai, learned Additional Public Prosecutor further resisted the release of the gold and submitted that the petitioner be called upon to produce the receipts and bills to show that the

gold ornaments were made by him for his daughter and only then allow the release of the same in the petitioner's favour.

6. Shri Dhond, learned Advocate in reply contended that the gold ornaments were made by the petitioner for his daughter over a period of time till her marriage and that in the last three years no offence had been registered against the son-in-law of the petitioner i.e. the accused for possessing asstes disproportionate to his known sources of income. There is no justification for the detention of the gold ornaments in the locker when the gold ornaments belonging to the wife, son and daughter-in-law of the petitioner had been released at his instance.

7. i have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor on behalf of the State and besides perused the judgment relied upon in **Pramod Bunyan v/s. B.N. Chonkar** (Cri. Revision Application No.26/2006) relied upon by Shri Dhond, learned Advocate for the petitioner. No justifiable grounds have been made out on behalf of the State to resist the release of the gold ornaments in favour of the petitioner when other gold ornaments were released in his favour which is contained in his locker maintained in the Bank of India, Vasco.

8. Considering the position of law in the matter and in view thereof, i do not find any basis in the objection raised by the the respondents and in the circumstances therefore the gold

ornaments belonging to the daughter of the petitioner shall be released in her favour on the following terms and conditions.

- 1) That the gold belonging to the petitioner's daughter shall be released to him on executing an Indemnity Bond in the amount of ₹15,00,000/- (Rupees Fifteen Lakhs only) to the satisfaction of the Investigating Officer.
 - 2) The Investigating Officer shall draw the panchanama of the release of the said ornaments and shall also videograph the said event apart from getting the same properly weighed and evaluated by a certified goldsmith.
 - 3) The petitioner shall produce the said gold as and when ordered to do so and shall produce the same as and when required in the course of the trial in the event an offence of disproportionate assets is registered against the accused.
9. In these terms the Criminal Writ Petition stands disposed off.
10. Parties to act on the authenticated copy of the order.

NUTAN D. SARDESSAI, J.

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