

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 2584 OF 2021

Balasaheb Vasant Sawant

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr. Rahul S. Kate a/w Mr. Pravin Maruti Dabade for the Petitioner

Mr. S. S. Hulke, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
MONDAY, 26th JULY 2021

P.C. :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned APP waives service on behalf of respondent–State.

3 By this petition, the petitioner seeks the following substantial prayers :

“b) Be pleased to modify the conditions imposed in Clause No. 4 in the order dated 20.04.2021 passed by the learned

District Judge 3 and Additional Session Judge, Sangli in Criminal Revn. Application No.16/2021;

c) Be pleased to allow the Petitioner to furnish with two local solvent sureties in the like amount in lieu of bank guarantee of Rs.2,27,00,000/-.”

4 Learned counsel for the petitioner submits that the jewellery which was seized from the accused i.e. the stolen gold, belongs to the petitioner and as such, the learned District Judge 3 and Additional Sessions Judge, Sangli, ought not to have directed the petitioner to furnish bank guarantee of Rs. 2,27,00,000/- (Rupees Two Crores Twenty-Seven Lakhs). He submits that under the circumstances and in the facts, there was no justification for the learned Judge to direct the petitioner to furnish the bank guarantee.

5 Learned A.P.P states that in addition to 2 local solvent sureties, the petitioner may be directed to furnish an indemnity bond for a sum of Rs. 2,27,00,000/-.

6 Perused the papers. The petitioner is a jeweller, having his shop at Saraf Lane, Shahapur, Belgaum in the name “J.R. Gold Refinery”. On 14th January 2021, the petitioner purchased gold from Sachin Jadhav

and Vinayak Jadhav and while proceeding to deliver the said gold to one Sanjay Nalawade with his employee-Pravin Chavan, the gold was stolen by the accused. Pursuant thereto, the petitioner lodged an FIR, which was registered vide C.R. No. 21/2021 with Jath Police Station. During the course of investigation, 21 gold biscuits and 2 kg 416 gms of gold ball worth Rs. 2,26,05,000/- (Rupees Two Crores Twenty-Six Lakhs Five Thousand) was seized. The entire gold what was stolen by the accused was seized by the police. Pursuant to the said seizure, the petitioner made an application under Section 457 of the Code of Criminal Procedure for handing over the seized muddemal to the petitioner, before the Judicial Magistrate First Class, Jath. The said application was rejected, pursuant to which, the petitioner approached the Sessions Court. The District Judge 3 and Additional Sessions Judge, Sangli, vide order dated 20th April 2021, allowed the application on certain terms and conditions. The relevant terms and conditions read thus :

“4) IO/Police Station in-charge of Jath Police Station is hereby directed to hand over the custody of 21 gold biscuits and 2 kg 416 grams gold worth Rs. 2,26,05,000/- seized by Jath Police Station in the Crime No.21/2021 to the applicant Balasaheb Vasant Sawant on his furnishing Bank Guarantee of Rs.2,27,00,000/- alongwith bond to that effect on following conditions.

a) The Applicant shall not alienate or transfer said Muddemal .

b) The Applicant shall not make any change in the said Muddemal.

c) The applicant shall produce the Muddemal in question before the court as and when required or ordered.

3. The photographs of the Muddemal in question be snapped at the cost of applicant by keeping visible its identification and be kept on record.”

7 Learned counsel for the petitioner is aggrieved by the said order, inasmuch as, it directs the petitioner to furnish bank guarantee to the tune of Rs. 2,27,00,000/- (Rupees Two Crores Twenty-Seven Lakhs) along with a bond to that effect.

8 It is not in dispute that the entire stolen gold has been seized by the police. The Investigating Officer has also given his no objection for handing over the seized muddemal to the petitioner. Admittedly, the accused have not made any claim to the said muddemal property.

9 Having regard to the aforesaid, it would be appropriate to modify the said condition imposed in Clause (4), to the extent that the

petitioner instead of furnishing bank guarantee of Rs. 2,27,00,000/- (Rupees Two Crores Twenty-Seven Lakhs), shall now furnish 2 local solvent sureties in the like amount in lieu of the bank guarantee. In addition, the petitioner shall also furnish indemnity bond for the sum of Rs. 2,27,00,000/- (Rupees Two Crores Twenty-Seven Lakhs).

10 Rest of the conditions imposed vide order dated 20th April 2021 i.e. Clauses (a), (b), (c) and Clause (3) passed by the District Judge 3 and Additional Sessions Judge, Sangli, shall remain as it is. Needless to state that the direction to furnish photographs of the muddemal, shall mean coloured photographs.

11 Rule is made absolute in the aforesaid terms and Petition is disposed of accordingly.

12 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.