

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

CRIMINAL REVISION APPLICATION NO. 256 OF 2022

Kailash @ Gul Achra ...Applicant
Versus
The State of Maharashtra ...Respondents

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Mr. Bharat Bhatia, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 1st AUGUST, 2022

PER COURT:

1. The First Information Report bearing No.301 of 2020 was registered with Hill Line Police Station, District Thane on 19.11.2020 for offence under Section 302 of Indian Penal Code (for short 'IPC') at the instance of Assistance Police Inspector Shri. Dhananjay Ganage attached to Hill Line Police Station. Missing Complaint No.47 of 2020 was registered at the instance of applicant alleging that his son Pavan Kailash Achra was missing from 16.11.2020. During investigation of missing complaint, involvement of Deepak Chetan Goklani was revealed. During interrogation accused Goklani had disclosed that the missing person had parted an amount of Rs.3,00,000/- to him. Pavan was demanding the said amount. The accused Goklani and another

accused killed Pavan by strangulation. Investigation revealed that, Pavan had handed over Gold ornaments to the accused No.1 which were misappropriated by him. FIR was registered. The accused had attempted to destroy evidence. Several persons were arrested. Gold ornaments were recovered. Charge-sheet was filed for offences under Sections 302, 201, 406 & 411 of IPC.

2. The applicant preferred application under Section 457 of Cr.PC. for return of the gold ornaments before Sessions Court. The investigating officer filed a report dated 02.08.2021 giving no objection for returning gold ornaments to the applicant. The accused No.1 filed the say stating that as per column No.4 of the affidavit consisting of gold ornaments valued Rs.15,85,220/-, he has no knowledge about the ownership of gold ornaments and he has no say about it and opted to leave at discretion of the Court and to pass appropriate orders. The accused No.1 filed another say dated 01.09.2021 stated that, he has no connection with the gold ornaments. Accused No.4 filed say dated 23.08.2021 and stated that it is difficult for him to make any comment on the contents and the prayers in the application and the Court may pass appropriate orders. Accused No.5 filed the say dated 12.08.2021 denying any link with the recovered Muddemal Articles.

3. Learned Additional Sessions Judge, Kalyan, vide order dated 27.09.2021 rejected the said application.

4. Learned Advocate for the applicant submitted that, in the report dated 02.08.2021 filed by Senior Inspector of Police, Hill Line Police Station it is stated that, the applicant is father of deceased. They don't have objection for handing over the articles mentioned in the application to the applicant. The accused No.1 by filing say stated that, he has no knowledge about the gold ornaments and has no right over the same. The accused Nos.4 & 5 from whom the gold was recovered has filed their say denying the ownership of ornaments. None of the accused claimed gold ornaments and averred that they have no connection with the ornaments. The applicant is the owner of the gold ornaments. The bills of purchase of ornaments are annexed to the application.

5. Learned A.P.P. has pointed out the say filed by learned A.P.P. before the trial Court and the report submitted by the Police. He supported order passed by trial Court.

6. The applicant is the father of deceased. The subject ornaments were recovered during the course of investigation. It is the case of prosecution that the deceased had entrusted the ornaments to accused. The Police report indicate that the

ornaments can be handed over to the applicant. The accused had not objected for handing over the ornaments to the applicant. Considering these circumstances, the prayers for return of the articles by way of interim custody can be granted. Hence, I pass the following order.

ORDER

- i) Criminal Revision Application No.256 of 2022 is allowed.
- ii) Impugned order vide order dated 27th September, 2021 passed by Additional Sessions Judge, Kalyan in Sessions Case No.167 of 2021 rejecting application for return of articles is set aside.
- iii) The article Gold ornaments, which are subject matter of application Exhibit-8 preferred by applicant be returned to the applicant on executing usual Supratnama Bond.
- iv) The applicant shall not alienate, transfer, change form of articles and shall produce the same as and when required by the trial Court.
- v) Application is disposed of.

(PRAKASH D. NAIK, J.)