

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 897/2021

Tarachand Narayandas Bajaj ...Versus...State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. V.B.Bhise, Advocate for petitioner.
Mr. I. Damle, APP for Respondent/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 13/01/2022

Heard Mr. Bhise, learned counsel for the petitioner and Mr. Damle, learned APP for respondent/State. The Investigating Officer is also present.

The petition challenges the order dated 6.1.2021 passed by the learned JMFC, Telhara, on an application seeking return of the muddemal property seized by the Police Station Telhara in Crime No. 287/2020 for the offence punishable under Section 392 of the Indian Penal Code.

It was claimed that the property seized was owned by the petitioner/applicant and was stolen from the residence of the petitioner/applicant on 20.9.2020. The application was rejected by the JMFC, Telhara, by the order dated 6.1.2021 holding that there was a difference in the value of the muddemal property, in as much as the informant had claimed its value to be Rs. 1,78,000/-

including Rs.12000/- cash and one samsung cellphone, however, the value of the seized property including the ornaments was found to be Rs. 6,48,500/-. The learned Sessions Court by its judgment dated 12.10.2021 has rejected the revision on the ground that the description of the ornaments did not match and ownership was not established by filing proper receipts.

Mr. Bhise, learned counsel for the petitioner submits that the record would demonstrate that the accused had committed one single theft at the house of the informant alone on the fateful night and the statement of the accused also indicates that the property which was seized was stolen by him from the house of the informant. He therefore submits that though the description may not have been identical due to oversight, however, considering the above position, it is apparent on record that the property belongs to the petitioner/applicant. He also invites my attention to the observation by the learned trial Court in para 2 of the order dated 6.1.2021, in which the I.O. has given his no objection for return of the property to the petitioner/applicant. The I.O. is present in the Court today and reiterates his stand before the learned JMFC that he has no objection for the property being returned to the petitioner/applicant.

Though the learned APP supports the impugned order, and submits that the property would be required during the course of trial, however, considering

that on the fateful day the accused had committed a single theft at the residence of the petitioner/applicant and the property seized has been admitted by the accused to have been stolen from the residence of the petitioner /applicant, though there may be some discrepancy in the description of the property, prima facie indicates that the property belongs to the applicant.

Considering the above position, I do not see any reason for the property to continue in the custody of the State. Any apprehension regarding the safety and production of the property can be taken care of by imposing conditions. I therefore allow the petition. Consequently, Misc. Criminal Application No.331/2020 filed before the learned JMFC, Telhara, is hereby allowed and the seized property be placed in possession of the petitioner/applicant, subject to the condition of the petitioner/applicant executing a bond in the sum of Rs.10,00,000/- along with one solvent surety in the like amount for the safety and production of the property before the learned JMFC as and when called upon. It is made clear that the petitioner/applicant shall not change the nature of the property, nor shall be entitled to deal with or transfer the property in any manner whatsoever and shall be fully responsible for its safe keeping and custody.

JUDGE

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