

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

904 CRIMINAL APPEAL NO.82 OF 2021

**BAPURAO DNYANDEV BANKAR
VERSUS
THE STATE OF MAHARASHTRA**

Mr.S.V. Jadhwar h/f. Mr. A.V. Thombre, Advocate for the appellant.
Mrs.D.S. Jape, APP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 01.03.2023**

PC :-

01. Heard both the parties. This petition is filed for release of the properties which were seized during the investigation on the basis of crime registered with the police and thereafter on the basis of which Sessions Case No.57 of 2010 was lodged. The learned Sessions Judge by order in Cri. Misc. Application No. 154 of 2019 was pleased to reject the application of the appellant by its order dated 30.09.2020 and therefore the appellant is before this Court.

02. It is case of the applicant that he happens to be a goldsmith. Some property sold by the accused were taken by committing decoity in the shops of other goldsmiths. The stolen gold was then transformed in gold

powder etc., in which present appellant was the informant. In the Sessions Case, trial was held against some of the accused. However, some of the accused are still absconding and in view of the same the muddemal property ie. Article No.1 to 18 were sent to the police station. It was directed to keep the said articles in the police station till the absconding accused are traced out. This order was passed on 20.07.2019.

03. Now it is case of the appellant that it is not certain as to when the absconding accused would be traced out. The gold articles are belonging to him. It is clear from the record that those were seized from the custody of this appellant and therefore he should be given back these articles.

04. The learned APP opposed the application. Now the articles cannot be identified as those of the appellant as their form is changed. She also submits that if appellants are given back the articles, it would be difficult to recover the same. The trial against the absconding accused is yet to be held and therefore she opposes the appeal.

05. However, considering that it not certain as to when accused

persons who are absconding would be traced out and would be tried, it would not serve the purpose by keeping the ornament in the police custody. This Court finds that the appeal, therefore, deserves to be allowed by imposing certain conditions. Hence, the following order.

06. The appellant shall file an affidavit that he shall produce the articles in the Court as and when required. He shall not change the present nature of the articles. He shall not create third party interest or shall not sell the articles to any one. The appellant shall furnish security of Rs.10,00,000/- (Rupees Ten Lakhs) with the Trial Court.

07. With these directions the appeal is allowed and disposed off.

[KISHORE C. SANT, J.]