



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 329 OF 2023
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WITH CRIMINAL REVISION APPLICATION NO. 333 OF 2023

Rajendra Alias Raju Jeevanlal Bamb
VERSUS
The State Of Maharashtra And Another

Mr. Rajendra S. Deshmukkh, Senior Advocate i/b Kojagiri M. Salve, Mr. D. R. Deshmukh, Advocate for the applicant
Ms. M. N. Ghanekar, APP for the respondent/State
Mr. S. S. Ghodke, Advocate for respondent No.2 in CRA No. 329/2023 and 331/2023
Mr. Chaitanya Deshpande, Advocate for respondent No.2 in CRA No. 333/2023
Mr. P. Patil h/f Mr. P. H. Patil, Advocate for respondent No.2 in CRA No. 330/2023

CORAM : S. G. MEHARE, J.

DATE : 19th AUGUST, 2024

PER COURT :-

1. Heard learned senior counsel for the applicant and respective learned counsels for respondent No.2 and learned APP for the State.

2. The brief facts of the case were that a report was lodged to the police station against the applicant that he does illegal money lending. He advances the loan against gold security. Therefore, the police raided his house and found various bags containing gold with tags indicating the names of the borrowers.

3. The applications of respondents in all petitions for temporary custody of the ornaments recovered from the applicant were allowed. In one of the cases i.e. Criminal Revision No.331/202023, the golden ornaments were pledged to the ICICI bank before the applicant borrowed the loan from the petitioner. Hence, those ornaments were identified.

4. The learned senior counsel submits that the learned Addl. Sessions Judge did not consider that the respondents had not produced title documents. The conditions for the release of golden ornaments during the trial are also illegal. The petitioner has an apprehension that if tomorrow the trial turns in acquittal, the applicant will not be entitled to recover the property forever.

5. The learned respective counsels for respondents submit that temporary custody has been granted to them pending the trial under Section 451 of the Code of Criminal Procedure ("Cr.P.C." for short). Though the title documents were not produced, the recovery of the golden ornaments with bags with their name tags, *prima facie*, sufficient to establish that they have the better title over the golden ornaments, and it also establishes that the petitioner was engaged in illegal money lending on pledging the golden ornaments. The petitioner did not claim the title over the recovered ornaments. The order releasing the

property under Section 451 will not affect the rights of the applicant. The Court ordered the indemnity bonds with the condition that the property be produced as and when called during the trial. The impugned orders are free from illegalities and infirmities.

6. Perused the impugned orders. Admittedly, the petitioner did not claim the title over the property which was released to respondent No.2. Section 451 of Cr.P.C., enabling the Magistrate to pass the order of releasing the property pending the trial. The Magistrate has to satisfy that the person claiming for interim custody has title over the said property or who has a better title. Recovery of the property from the applicant in numerous bags with the name tags of respondents corroborates the allegations of illegal money lending. The petitioner did not claim the title over the seized property. So, the learned Additional Sessions Judge correctly drew the inference that those are the properties belong to the respondent Nos.2, and they are entitled to receive temporary custody under Section 451 of Cr.P.C. Granting property under Section 451 of Cr.P.C. does not determine the rights of the parties to such applications. At the time of the conclusion of the trial, the Court has to pass the final order of the custody of the property claimed under Section 452 of Cr.P.C. That stage is yet to come. The impugned orders are free

from illegality and perversity. There is no substance in the applications. Hence, all applications stand dismissed. No order as to costs.

(S. G. MEHARE, J.)

ssp