



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

CRIMINAL APPLICATION (APPA) NO.621/2024

IN

CRIMINAL APPEAL NO.805/2023

Mohd. Afroz Alias Soheli Shaikh S/O Mohd. Yusuf Shaikh

Vs.

The State of Maharashtra thr. P.S.O. P.S., Tumsar, dist. Bhandara

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

Court's or Judge's orders

Shri S.A. Mohta, Advocate for applicant
Shri G.D. Kale, Advocate for appellant
Shri A.M. Ghogre, APP for respondent No.1/State

**CORAM : SMT. M.S. JAWALKAR AND
M.W. CHANDWANI, JJ.**

DATE : 28/11/2024

1. The applicant is the loan surviving member of victims who were looted and murdered in a crime registered by Police Station Tumsar. During investigation, the looted property i.e. Jewelry ornaments of deceased Sanjay Soni and Poonam Soni, parents of the applicant, apart from cash of Rs.39,05,600/- and other articles were seized and produced during the course of the trial. During the trial, out of Rs.39,05,600/-, the applicant was given an amount of Rs.15,00,000/- and rest of cash was directed to be deposited in a Bank. It is to be mentioned here that during trial, the accused including appellant herein have been convicted and sentenced for offence punishable under

Sections 302, 396, 120B, 449, 201 read with 34 of the Indian Penal Code. The learned Sessions Court in its operative order of the impugned judgment has also passed the order with regard to disposal of the property including cash and jewelry ornaments and camera, more particularly, prescribed in paragraph Nos.B and C under the head of 'Disposal of Property' and directed that these shall be handed over to the applicant, after the appeal period is over. Needless to mention here that the appeal has been filed by the appellant challenging the judgment of conviction perhaps that may be the reason that the learned Session Court could not have delivered the property as per the direction in the impugned judgment. Therefore, the present application has been moved in this appeal.

2. The contention is that the applicant is in dire need of money and no purpose will be served by withholding this amount as well as ornaments. The appeal may take considerable time.

3. It is to be mentioned here that the learned Counsel for the appellant as well as APP appearing on behalf of the State has given no objection. It also appears from the impugned judgment as well as the statement made by the Counsel before this Court that none of the accused claimed the property.

4. Though initially by this Court opined that the application will be considered along with the appeal, but

considering the request and financial difficulty of the applicant demonstrated by the learned Counsel for the applicant, we have seen no difficulty in allowing the application with direction to the learned Sessions Court to deliver the properties cash amount of Rs.24 lakhs along with accrued interest as well as jewelry ornaments and camera in terms of Clause B and C under the head of 'Disposal of Property' in operative part of the impugned judgment with following conditions.

5. The applicant shall not change the nature of the jewelry ornaments till disposal of the appeal with further direction that she shall produce the ornaments as well as the cash amount as and when directed by this Court.

6. The Registrar of the Sessions Court is directed to take the photographs of the jewelry and prepared panchanama mentioning particulars of jewelry ornaments in detail, before handing over the jewelry to the applicant.

7. In view of above, Criminal application is allowed.

(M.W. CHANDWANI, J.)

(SMT. M.S. JAWALKAR, J.)