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

909 CRIMINAL WRIT PETITION NO. 439 OF 2025

RAMESH SHIVRAJAPPA BENDKE

....Petitioner

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mr. V. P. Latange, Advocate for the petitioner

Mr. R. B. Dhaware, APP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 13th AUGUST, 2025

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1. Heard the parties.

2. The petitioner has approached this court challenging an order dated 23-01-2025 passed by learned Revisional Court dismissing the revision application No.133/2022. A challenge in the said revision was to an order dated 15-10-2022 passed below Exh.1 in Cri.M.A. No.355/2022 by the learned JMFC, Jintur. By the said order application of the present petitioner for releasing the seized property i.e. silver ornaments which now

transformed into silver bricks which were seized from the accused in an offence of theft.

3. The accused had committed theft on 23-09-1997 to 24-09-1997 in a shop of present petitioner. Value of the silver and gold ornaments was to be Rs.2,23,000/- then. Now the trial to the extent of some accused is over. One accused is absconding. The accused after theft had melted the silver property and prepared silver bricks. When the silver was seized, it was in the form of bricks. Total weight of the silver was around 48.248 kilo which is sold to one Appasaheb. After filing of the charge-sheet, case was tried as RCC No. 180/1999. Later on, declared the accused absconding after issuing proclamation. The case is, therefore, kept on the dormant file. The property i.e. silver is presently in possession of the police at Police Station Jintur.

4. The petitioner therefore, filed an application for releasing of the property. The learned trial court dismissed the

application on the ground that said Muddemal may be required in the cases at Aurangabad in Crime No.89/1998 registered with City Chowk Police Station and in Crime No.217/1997 registered with Police Station Jintur and rejected the application. The petitioner thereafter preferred the criminal revision application. The learned Additional Sessions Judge by the impugned order dated 23-01-2025 dismissed the revision. Only reason assigned is that value of the property was shown to be Rs.2,23,000/- in 1997 whereas now value is shown to be Rs. 30 to Rs.40 lakhs without any justification. It is further observed that the petitioner failed to show how he is entitled to said silver bricks stating that value of the property stolen from his shop was much less and now he is asking for the property of more value.

5. The leaned advocate for the petitioner vehemently argued that in fact the property was stolen in the year 1997 when the rate of silver was around Rs.3000/- per kilogram and now after twenty five years the value of silver is around more than Rs.80000/- per kilogram. The court ought to have seen the

description of the property rather than the value of the property. Value of the silver and gold ornaments would always depend upon the market condition and therefore that cannot be a factor to decide such application. There is bound to variation in the rates.

6. The learned APP submits that in fact they had not even objected to such an application as the facts are admitted. He, thus, prays for passing appropriate order.

7. In the present case, there is no dispute that silver ornaments were stolen from the shop of the petitioner. There is panchanama drawn about the same. The accused persons after committing theft transformed the silver ornaments into silver bricks. However, same is seized. The learned trial court has dismissed the application staging that property may be required in the trial as Muddemal property. The value of the property would depend upon the market condition and by passage of time that would increase. In the present case, there is huge gap

of more than 25 years and for that value appears to be much more than what was shown in the year 1997. What should be considered in such application is a description of the property, which is not disputed in the present case. This court thus, finds that the learned Sessions Court has committed an error in dismissing the revision on the ground as stated in the revision. The learned Sessions Court ought to have allowed the revision application when things were not disputed.

8. With this, this court is inclined to allow the criminal writ petition. The criminal writ petition, therefore, stands allowed. Cri. Misc. Application No. 355/2022 filed before the learned JMFC, Jintur stands allowed by setting aside the impugned order dated 23-01-2025 passed by the learned Additional Sessions Judge, Parbhani in Criminal Revision Application No. 133/2022.

9. The Investigating Officer is present as this court had ordered, since there was report that charge-sheet was missing.

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Now he is present with the copy of the charge-sheet which is now found in the court of JMFC, Jintur.

[KISHORE C. SANT, J.]

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