

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 131 OF 2025

Brinks India Pvt. Ltd. Through
Its Autho. Vinay Desai

...Petitioner

Vs.

The State of Maharashtra and Anr.

...Respondents

Adv. Racheela R. Dhuru a/w Adv. Rajtilak R. Dhuru	Advocate for the Petitioner
Mr. Yogesh Y. Dabke	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 02nd SEPTEMBER 2025

P. C. :-

1. Heard learned Advocate Ms. Dhuru for the Petitioner and learned APP for the Respondent-State. As directed on 26.08.2025, today learned APP has produced copies of the following documents:-

a) **photocopy of sealed envelope***

b) Seven photographs taken in the Police station at the time of the handing over gold bars to the Petitioner.

They are taken on record. They are marked as 'Annexure-X'.

2. Learned APP on the basis of the instructions submitted that as directed by this Court in the order dated 09.12.2020 passed in Criminal Writ Petition No. 5062 of 2019, photographs are taken and videography is done. These original photographs, pen drive and this videography is produced before the concerned court. According to him, there is sufficient compliance of the direction given in the order dated 09.12.2020. These directions are given so that the prosecution can rely upon that evidence to show the identity of the stolen property.

3. It is true as per the said order this Court has granted liberty to the Petitioner to alienate, transfer, gift, sell the said gold bars by filing an appropriate application before the trial court (direction no. (v) page nos. 41 and 42). It is reproduced below :--

“v) The petitioner shall not alienate, transfer, gift, sell or change the nature of the said 130 gold bars. However, in the event, the petitioner intends to alienate, transfer, gift, sell the said gold bars, liberty is granted to the petitioner to file an appropriate application in the trial court.”

4. It is submitted by learned Advocate Ms. Dhuru that even indemnity bond was furnished by the Petitioner. It is on page no. 43. It is true as per the liberty granted, the Petitioner has applied before the learned Magistrate for sale of that property. However, the learned JMFC, Esplanade, Mumbai as per order dated 30.09.2024 has refused permission. The reason cited is those gold bars will be required for the purpose of identification during the trial. The said observations are correct but when the photographs and videography is done as directed by this Court, the prosecution can certainly rely upon that evidence during the trial to prove the identity. So interest of the prosecution is protected.

5. In view of that the Petitioner can be granted permission to sale the seized property (page no. 49 is application before the trial court). However, the issue may crop up in future. The trial Court may be required to direct the Petitioner to deposit the amount and not the seized property.

6. Learned Advocate Ms. Dhuru has invited my attention to the observations made by this Court in para no. 5 of the order dated

09.12.2020. There is noting that accused has given no objection for return of the said property, stating that he has nothing to do with the property in question.

7. Be that as it may, if there is an occasion for the Court to issue certain directions in the interest of the justice, it is required for the Petitioner to execute the bond that he will produce the amount in the Court. Because every situation cannot be foreseen now. According to learned Advocate Ms. Dhuru, the following documents are relevant:--

- (a) The amount of Rs. 4,35,00,000/- mentioned by this Court was for the purpose of furnishing bank guarantee in the order dated 09.12.2020.

In view of that, direction can be given to furnish a bond for that amount. Hence, the following order:-

- (i) The petition is allowed in terms of prayer clause 'a' of the petition.
- (ii) The order dated 30.09.2024 passed by learned JMFC, Esplanade, Mumbai is set aside.
- (iii) The Petitioner is permitted to sell the seized gold bar possessed by him on the subject of the

following conditions:-

- (a) In case if it is required in future and if directed by the Court, the Petitioner to deposit an amount of Rs. 4,35,00,000/- (Four Crore thirty-five lakhs) before the Court.
- (b) It is also made clear that if there is an occasion, then the concerned Court has to hear the Petitioner and then only to pass order which is justified in facts and circumstances of the case.
- (c) The indemnity bond to the effect he will deposit the amount directed by the Court be furnished before the trial Court within two weeks from the date of uploading this order.

8. With these observations, the Writ Petition is disposed of.

[S. M. MODAK, J.]