

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

CRIMINAL WRIT PETITION NO.2457 OF 2025

**SATISH
RAMCHANDRA
SANGAR**

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SATISH RAMCHANDRA
SANGAR

Date: 2025.07.30
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Mangala Prakash Kothari

Age : 66 Years, Occupation : Housewife,
Room No.15, Paras Niwas, Gograswadi,
Dombivali (East), District : Thane.

...Petitioner

Versus

The State of Maharashtra

(Through Kalyan Railway Police Station).

...Respondent

Mr.Omprakash Parihar:-	Advocate for Petitioner.
Mr.H.J.Dedhia:-	APP for Respondent – State.
Mr.S.P.Sawant : PSI:-	Kalyan Railway Crime Branch – Unit No.3.

CORAM : S. M. MODAK, J.

DATE : 23rd JULY 2025

P. C. :-

1. Heard learned Advocate for the Petitioner / First Informant and learned APP.

2. The Petitioner lodged the complaint with Lohmarg Police Station–Mumbai on 23rd December 2021. It is in respect of theft of certain golden ornaments, mobile and other articles. She was travelling from Dombivali to Nashik on 23rd December 2021 from a train.

Someone has stolen those articles from her purse. During investigation, the Police have arrested two Accused persons. They are Accused No.1– Shahzad Kallan Sayyad and the Accused No.2–Zulfikar Ali. The Accused No.1 is charge-sheeted for committing theft whereas the Accused No.2 is charge-sheeted for purchasing the ornaments from the Accused No.1 and melting them and preparing a golden nugget. The charge-sheet was filed for the offences under Sections 379, 411, 414 read with 34 of the Indian Penal Code, 1860 (“IPC”).

3. Both the Accused have pleaded guilty and it was accepted by the Court of Judicial Magistrate First Class – Kalyan Railway on 12th November 2022.

4. The present Petitioner applied for return of golden nugget before the learned Magistrate. It was rejected vide the order dated 16th January 2023. I have read the order. The reasoning given in the order cannot be sustained in the eyes of law. Learned trial Judge overlooked the fact that both the Accused have pleaded guilty. If guilt is pleaded, there is no question of proving commission of the offence. The prosecution has not examined any witness. In nutshell, the commission of theft by the Accused No.1 is proved. It is also true that the Accused No.1 sold those ornaments to the Accused No.2 and he has prepared a golden nugget.

Learned trial Judge has overlooked these fundamentals of pleading guilty and drawing of inference.

5. Learned trial Judge has doubted how the weight of recovered nugget is of the same weight as that of ornaments. Learned Judge has overlooked the factual aspect. It is not within a domain of the trial Judge to make such observations. It is part of investigation. Learned trial Judge erroneously observed:-

“the evidence pertaining to the recovery of the property at the instance of accused, and the evidence pertaining to the change in the form of property is required to be established”.

By making these observations, the learned Judge has truly not considered what is effect of accepting the plea of guilt.

6. When the Petitioner filed a Revision Application, even learned Additional Sessions Judge committed the same mistake. The Revision was dismissed on 1st July 2024. The Revisional Court again emphasized on the nature of stolen articles, its ornament form and nature of seized articles. It is in nugget form. If any Accused commit such theft, it is his choice what should be done of those articles. If it is converted into a golden nugget, it is for the prosecution to prove it. The guilt is admitted. So there cannot be a doubt about this theory.

7. Additionally, the Revisional Court considered that the gold is recovered from the custody of goldsmith. In the charge-sheet, there is a reference that the Accused No.2 sold the stolen ornaments to one Gopal Kailas Soni, Radhika Jewellers from Ajmer-Rajasthan. His statement is recorded by the Police on 2nd August 2022. From the stolen ornaments, he has prepared 4 golden nuggets. Out of them, one is weighing 60 grams valuing Rs.2,70,000/- (Rupees Two Lakh Seventy Thousand). According to the prosecution, this is the nugget which is made up from the stolen ornaments. It is true that the said Soni has not appeared before the trial Court. At least, it is not reflected in any of the orders. **If he comes forward, the trial Court can decide his claim after hearing the Petitioner.** Both the Courts have overlooked the consent given by the Investigating Agency and both the Accused. **In view of that, the seized golden nugget is required to be returned to the Petitioner.** Hence the following order is passed:-

ORDER

- (i) **The Petition is allowed.**
- (ii) The order dated 16th January 2023 passed by the Court of Judicial Magistrate First Class – Kalyan Railway, Kalyan and the order dated 1st July 2024 passed by the Court of Additional Sessions Judge – Kalyan **are set aside.**

- (iii) The Application of the Petitioner is allowed.
 - (iv) The Court of Judicial Magistrate First Class–Kalyan Railway is directed to return the seized golden nugget weighing about 60 grams to the Petitioner, subject to giving an undertaking that if that Gopal Kailas Soni will appear and claim the nugget, she will abide to the orders of the Court.
 - (v) If such claim is made by Gopal Soni, the Court to decide the claim after hearing the Petitioner.
8. **The Petition stands disposed of.**

[S. M. MODAK, J.]