



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.652 of 2025**

M/s. Jalpa Diamonds	...	Applicant
versus		
The State of Maharashtra and Anr.	...	Respondents

Ms. Anjali Patil for Applicant.
Mrs. Rashmi Tendulkar, APP for State.
Mr. Viral Mukte, for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 6 NOVEMBER 2025

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in this application is to an order dated 27 May 2025 passed by the learned Sessions Judge, whereby the revision application preferred by the Applicant against an order passed by the learned Magistrate directing return of the seized property i.e. Hawa + 2 top 141.93 ct. diamonds, to the applicant – first informant, upon furnishing bank guarantee to the tune of Rs.67 Lakhs, came to be rejected.
3. Learned Sessions Judge was of the view that, though the impugned order deserved to be modified, yet, in view of the bar under Section 397(2) of the Code of Criminal Procedure, 1973, the revision application was not maintainable as the order passed by the learned Magistrate was not a revisable order.

4. The gravamen of indictment against Respondent No.2 – accused No.1 is that the accused No.1 in furtherance of his common intention with the absconding accused had committed criminal breach of trust in respect of the diamonds entrusted to him. Upon the arrest of the accused, the property in respect of which the offences were committed, came to be seized. The accused as well as the prosecution gave no objection for the return of the property to the applicant – first informant.

5. As there was no other claimant and the seized property was ordered to be returned to the first informant, the condition of furnishing the bank guarantee to the tune of Rs.67 Lakhs appeared to be onerous. Since the learned Magistrate has also directed the applicant – first informant to furnish an indemnity bond, the said stipulation addresses the concern of securing the production of the property at the stage of trial and passing final order in regard thereto.

6. In view of the above, the Application deserves to be allowed.

7. Hence, the following order :

ORDER

(i) Criminal Application stands allowed.

(ii) The impugned order dated 5 November 2020, as modified by the order dated 20 September 2024, directing the applicant to furnish bank guarantee of a nationalized bank in the sum of Rs.67 Lakhs, stands quashed

and set aside.

(iii) The seized property be returned to the applicant – first informant in terms of the order passed by the learned Magistrate, upon fulfillment of rest of the conditions.

(N.J.JAMADAR, J.)