



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

CRIMINAL WRIT PETITION NO. 381/2025

(Tara w/o Govind Hurkate Vs. State of Maharashtra)

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

Court's or Judge's orders

Mr. H.D. Hajare, Advocate for petitioner.
Mr. M.J. Khan, APP for respondent.

CORAM: URMILA JOSHI-PHALKE, J.
DATED : 11/06/2025.

Heard.

2. **Admit.**

3. By this writ petition, the petitioner has challenged the order and judgment passed by the District Judge-2 and the Additional Sessions Judge, Hinganghat dismissing the criminal revision No. 11/2022 dated 06.08.2024. The brief facts which are necessary for the disposal of the present writ petition are as under:-

4. First Information Report came to be lodged by the petitioner with regard to the theft which was occurred at her house therein constituting the offences punishable under Sections 458, 380 read with Section 34 of the Indian Penal Code and crime is registered vide Crime No. 683/2020 on 08.11.2020. During the course of investigation, the Investigating Officer has conducted the detailed investigation and after completion of investigation, charge-sheet is filed bearing RCC No. 55/2022 pending before the

Judicial Magistrate First Class, Court No.3, Hinganghat. During the course of investigation, the Investigating Officer has seized the articles by way of drawing seizure panchanama dated 23.11.2020 and some articles were seized from the accused Ankush Dhandare. As per the seized articles gold bar of 21.920 gm and gold coin of 1.98 ml.gm have been seized from Harshal Krishnaji Sone R/o. Khamgaon. As per the panchanama, accused Lahu Dhandare and Sachin Aptewar sold these ornaments to him and that there was no evidence as to the conversion of ornaments into the said gold bar. The Police also seized the amount of Rs. 5,50,000/- from the possession of accused Sachin Ingale.

5. The present petitioner preferred an application for interim custody of the said gold ornaments as well as the cash amount. Said application was rejected by the Judicial Magistrate First Class Court No.3, Hinganghat observing the inconsistent statement of the petitioner during investigation. The said order was challenged by the petitioner before the Additional Sessions Judge, Hinganghat in Criminal Revision No.11/2023, the same was also dismissed and hence, present writ petition.

6. It is submitted by the learned counsel for the petitioner that learned Additional Sessions Judge committed an error by observing that there are inconsistent statements. The petitioner is having relevant documents to show the ownership of the said gold ornaments as well as the cash

amount. The cash amount is admitted to the extent of Rs. 15,000/- is to be given to the present petitioner and the disputed amount can be given after disposal of the trial. At this stage, there is no hurdle in returning the property to the petitioner and the present petitioner would produce it, as and when required before the Trial Court.

7. Learned APP strongly opposed the said contention and submitted that there is consistent change in stand by the petitioner with regard to the stolen articles ornaments from her house. The petitioner has also claimed that the cash amount of Rs. 5,55,000/- recovered by the Investigating Officer. During investigation, there is an allegation that only cash amount of Rs. 15,000/- came to be stolen from her house, whereas she is claiming the amount of Rs. 5,50,000/-. In her initial statement, she has prayed for the interim custody of the gold chain 14.970 gms, gold chain along with locket 29.270 gms, gold bracelet 13.400 gms, gold ring studded with 9 stones 8.420 gms, gold ring studded with 9 stones 8.420 gms, gold om locket 4.800 gms, gold coin of 1.1980 gms and gold stick (gold bar) 21.920 gms total weighing 154.38 gms gold. As subsequently, she has in her supplementary statement changed the description of the said gold ornament. Learned APP also furnished on record the detail chart showing that in initial statement, she has described the said gold articles by giving description which she has subsequently changed. Thus, considering inconsistent statements of the petitioner, learned Trial Court as well as the Revisional Court rightly

rejected the application and then no interference is called for.

8. Heard both the side, perused the reply filed by the State as well as the order passed by the Additional Sessions Judge, Hinganghat. As per the story of the prosecution on 08.11.2020, when the applicant was out of station, some unknown persons committed the theft by entering in the house. The matter was reported to the Police and the Crime registered under Sections 458, 380 read with Section 34 of the Indian Penal Code. The applicant has given description of some gold ornaments to the Police which are mentioned in the FIR. She also gave oral list as she could recollect at that time. Latter on, she found that the other ornaments were also stolen and therefor, she gave description of those ornaments to the Police. During investigation, the Investigating Officer arrested the accused, seized gold which was converted and other ornaments from the accused. The description list is given in seizure panchanama dated 22.11.2020, 26.11.2020 and also in the supplementary statement of the petitioner dated 27.11.2020. The description of the ornaments of the petitioner seized from the accused from the Hinganghat Police are gold chain of 14.970 gms, gold chain along with locket of 29.270 gms, gold bracelet of 13.400 gms, gold ring of 6.240 gms, gold ring of 8.19 gms, gold ring of 8.420 gms, gold om locket of 4.800 gms, gold coin and gold stick. The Police also seized cash amount of Rs. 5,50,000/- from one accused Satish. The investigation paper reveals that accused Ankush gave

this cash amount to Satish to purchase the tractor, the accused sold gold and collected the said cash and therefore, she claims that the cash amount belongs to her. She further contended that she is the absolute owner of these ornaments and cash amount which was seized from the accused. The petitioner has produced on record six bills and photos of seized gold ornaments. Perusal of the order of the Judicial Magistrate First Class, Court No.3, Hinganghat shows that charge-sheet has been filed against accused Ankush and other co-accused, as accused Ankush and Sachin Aptewar given no objection to release Muddemal, however, the learned Magistrate has observed the inconsistent statements and rejected the application. The informant while lodging the FIR, alleged the total 20 articles of the ornaments and cash amount of Rs. 15,000/- were stolen, whereas in her subsequent statement, she has changed her stand mentioned that 4 gold bangles and other gold ornaments have also been stolen. As per the verification of the seized property dated 23.11.2020, the said gold ornaments are verified as per the panchama dated 23.11.2020 amount of Rs. 5,55,000/- is seized from the possession of the Sanchin Ingle and as per the statement, it was the co-accused Lahu Dhandare has given the said amount to Satish Dhandare to purchase the Tractor. The receipt tendered on record by the informant did not tally with the FIR and supplementary statement of informant as per the observation of the Trial Court. The supplementary statement is given by the informant is also inconsistent with her earlier statement. Thus, considering

all these facts, learned Magistrate as well as learned Sessions Judge has rejected the application by dismissing the revision.

9. Considering the observation made by the learned Judicial Magistrate First, Class as well as learned Additional Sessions Judge and the chart which is filed on record by learned APP, this is not a fit case wherein the interference is required, hence petition being devoid of merits, the same is liable to be dismissed. Accordingly, I proceed to pass following order:-

(I) Writ petition is hereby dismissed.

(URMILA JOSHI-PHALKE, J.)