



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 146 OF 2024

Bharat Dalichand Jain

Vs.

The Police Inspector, Railway Police Station, Gondia, Division, Nagpur & Ors.

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

Court's or Judge's orders.

Mr. P.M. Anjekar, Advocate for the Petitioner.

Mr. N.H. Joshi, APP for Respondent Nos.1 & 3.

Mr. P.V. Navlani, Advocate for Respondent No.2.

CORAM : ANIL L. PANSARE AND M.M. NERLIKAR, JJ.

DATE : 21st AUGUST, 2025.

Heard.

2. The FIR is registered in October, 2016 for committing theft of 3 kg. gold total amounting Rs.80,00,000/- approximately. During the course of investigation, it is revealed that twelve persons were involved in the crime. The gold stolen was sold to three jewellers for Rs.33,00,000/-. The cash was allegedly distributed amongst the accused persons. Out of twelve accused persons, five accused persons were arrested. Out of five accused persons, three accused persons are/were jewellers.

3. The charge-sheet has been filed against these five accused persons. The grievance of the petitioner is that neither the cash nor the gold is recovered for all these years. The learned counsel for the petitioner submits that the Investigating Officers have acted hand in glove with the accused persons and

that is the only reason why neither the cash nor the gold is recovered.

4. We do not want to jump to the conclusion as regards the role attributed to the Investigating Officers by the petitioner, but it is surprising that for all these years, the Investigating Officers could neither recover the gold nor the cash, which the accused persons distributed amongst themselves by selling the gold. It is worth mentioning here that three jewellers to whom the gold is sold were arrested in the month of December, 2016. As such, the arrest should have laid to recovery of the gold, no reason, however, is coming forth from the Investigating Officers as to what efforts were taken to recover the gold or why the gold could not be recovered.

5. So far as the recovery of cash is concerned, the learned A.P.P. submits that the arrested accused received only Rs.2,00,000/- out of Rs.33,00,000/-, of which Rs.1,50,000/- was allegedly given to the main accused, who is still absconding. This theory, on the face of record, is not acceptable. Once the cash was distributed amongst the accused persons, there appears no reason why the major portion of the distributed cash should be returned back to the main accused. The theory of distribution of the cash thus loses significance if the cash so distributed is to be returned back to one or the other accused.

6. The learned A.P.P. submits that the cash was not returned to the main accused but was kept with him for safety

purpose. This theory is also unacceptable, particularly because the investigation is completely silent in this regard in the sense when was the cash received and the manner in which it was kept in custody with the main accused is not investigated at all.

7. The grievance putforth by the petitioner will have to be looked into and appreciated in the light of the manner in which the investigation has been carried out by the Investigating Officers.

8. The learned A.P.P. shall name all the Investigating Officers and place on record an affidavit, as regards the details of the investigation carried out by each Investigating Officer, before the next date.

9. Once the name of the Investigating Officers are disclosed, the petitioner shall make them party respondents.

10. List for further consideration in the week commencing from 8th September, 2025.

(M. M. NERLIKAR, J.)

(ANIL L. PANSARE, J.)

Vijaykumar