IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1877 OF 2025

Balram Kumar Palendra ..Petitioner
Aged about 28 years
Of Bombay, adult, Indian Inhabitant,
Residing/Working at Room No. 202,
Amir Industrial Estate, Sitaram Jadhav
Marg, Sun Mil Compound, Lower Parel,
(West), Mumbai – 400 013.

Versus

1. The State of Maharashtra ...Respondents
thr. Matunga Police Station,
to be served through Public Prosecutor,
High Court (A.S.), Mumbai.

2. Parul N. Srivastav (Accused No. 6),
Add- Siddhivinayak Chawl, Samsan
Bhumi, Titwala (West), Thane.

Mr. Sushil Upadhyay a/w Mr. Ankit R. Upadhyay, for the Petitioner.
Mr. R. S. Tendulkar, APP for the Respondent No. 1 – State.
P.I. Keshav D. Wagh, Matunga P. S., Mumbai.

CORAM: N. J. JAMADAR, J.
DATE : 8th JANUARY 2026

JUDGMENT:

SANTOSH SUBHASH KULKARNI Digitally signed by SANTOSH SUBHASH KULKARNI Date: 2026.01.12 19:02:06 +0530

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. The challenge in this petition is to an order dated 01st August, 2024, whereby an application preferred by the

petitioner for return of the property seized, during the course of investigation, came to be rejected.

3. Shorn of superfluities, the background facts can be stated as under:-

3.1 The petitioner is working as a Manager with the M/s. B. N. Jewels owned by Shri. Biswanath Shabhunath Pal. The said company has its branch at Ratanpur, Hugli, in the state of West Bengal.

3.2 On 18th December, 2023, the petitioner and his associates were carrying two bags containing casting gold and gold filing dust; the residue of the gold ornaments. At about 00:15 a.m., the Taxi in which the petitioner and his associates were traveling was intercepted and the robbers de-camped with a trolley bag containing 35 kg casting gold and gold filing dust. Hence, the petitioner lodged a report with Matunga Police Station.

3.3 During the course of investigation, the accused were apprehended and cash amount of Rs. 2,00,000/- (Rupees Two Lakhs) casting gold and filing dust as well as a yellow metal ingot were recovered.

3.4 Initially Biswanath Pal, the owner of B.N. Jewels, filed an application for return of the seized property. The learned Sessions Judge was persuaded to reject the application as the seized property was in the possession of the first informant and not Mr. Biswanath Pal, when it was stolen, and the Investigating Agency had given no objection for return of the seized property to the first informant. It was further noted that, the applicant therein had not tendered the dimensions and the hallmark details of the alleged stolen property.

3.5 Thereupon, the petitioner preferred an application (Exh. 22) for return of the seized property. By the impugned order, the learned Sessions Judge was again persuaded to reject the application observing, *inter alia*, that, though the owner of B. N. Jewels had given no objection for return of the seized property to the petitioner, yet, there were two claims and having regard to the quantum of the seized property, it would be inappropriate to return the seized property to the petitioner.

4. Being aggrieved, the petitioner has invoked the writ jurisdiction.

5. I have heard Mr. Sushil Upadhyay, the learned Counsel for the petitioner, and Smt. R. S. Tendulkar, the learned APP for the

Respondent No. 1 – State. I have also perused the documents and material on record.

6. Evidently, neither the accused from whom the seized property was allegedly recovered, nor the Investigating Officer had raised any objection to the return of the seized property to the petitioner. Biswanath Pal, the owner of B. N. Jewels, has filed an affidavit giving no objection for return of the property to the petitioner. The Investigating Officer had in terms stated that, the investigation revealed that, the seized property belonged to the petitioner.

7. The learned Sessions Judge, in the circumstances of the case, took a very hypertechnical view of the matter. The petitioner had placed on record a tax invoice. A testing report from Vaikunth Somaiya Jwellers, indicating the purity of the gold ingot and the value of casting gold and filing dust was also obtained. In the absence of any claim from the accused or any other person, when the first application was preferred by Biswanath Pal, owner of B. N. Jewels, was rejected on the premise that, the Investigating Officer had given no objection to the return of the seized property to the first informant and not Biswanath Pal, the learned Sessions Judge ought to have

exercised the discretion to return the seized property in a more judicious manner. There is contemporaneous record to indicate that, the property was stolen from the possession of the petitioner and, *prima facie,* material to establish the nexus between the said stolen property and the seized property. The learned Sessions Judge was, therefore, not justified in rejecting the application for return of the seized property. The petition, therefore, deserves to be allowed.

8. Hence, the following order:-

: : O R D E R : :

I) The petition stands allowed.

ii) The impugned order dated 01st August, 2024 stands quashed and set aside.

iii) The application for return of seized property (Exh. 22) in Sessions Case No. 388/2024 stands allowed.

iv) The seized property be returned to the petitioner/first informant upon furnishing a supratnama/indemnity bond of the amount as may

be determined by the learned Sessions Judge, and subject to terms and conditions as may be imposed by the learned Sessions Judge.

v) Necessary order for release of the seized property in favour of the petitioner/first informant be passed by the learned Sessions Judge within a period of two weeks from today.

vi) No costs.

[N. J. JAMADAR, J.]