

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2489 OF 2025
WITH
INTERIM APPLICATION (ST) NO.24299 OF 2024**

Pratik Prakash Ramteke	...	Petitioner
versus		
The State of Maharashtra	...	Respondent

Mr. Omprakash Parihar, for Petitioner.
Mr. D.J.Haldankar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 16 FEBRUARY 2026

P.C.

1. Heard the learned Counsel for the parties.
2. By this Petition under Article 227 of the Constitution of India, the Petitioner takes exception to a judgment and order dated 1 July 2024 passed by the learned Additional Sessions Judge, Kalyan, in Criminal Revision Application No.24 of 2023, whereby the revision preferred by the Petitioner against the order passed by the learned Magistrate in Criminal M.A.No.80 of 2022 dated 16 January 2023, thereby rejecting the application to return the property, came to be dismissed.
3. The Petitioner is the first informant in C.R.No.189 of 2022 registered with Kalyan Railway Police Station for the offences punishable under Sections 379, 411, 414 read with Section 34 of the Indian Penal Code, 1860. On 23

SWAROOP
SHARAD
PHADKE

Digitally signed by
SWAROOP
SHARAD PHADKE
Date: 2026.02.20
21:45:47 +0530

January 2022, the Petitioner was travelling to Badnera from Kalyan along with his mother, and other family members in Puri Express. After the train left Kalyan Railway station, the Petitioner realized that the zip of his mother's bag was opened and a small purse containing gold ornaments was stolen by an unknown person. The Petitioner, thus, lodged a report.

4. During the course of investigation, accused Shahzad Kallan Sayyed was arrested. Pursuant to the discovery made by the said accused, a yellow-metal gold ingot weighing 40 gms was recovered from the jeweller - Gopal Soni.

5. It appears that Shahzad Kallan Sayyed (A1) and Zulfikarali @ Guddu Shabbir Hussain (A2) pleaded guilty and by a judgment and order dated 12 November 2022, the accused were convicted and sentenced to suffer imprisonment and pay fine. However, the learned Magistrate did not pass any order regarding the disposal of the property as the stolen property was purportedly gold ornaments and the recovered property was yellow metal ingot. Thus, till the decision on the question of entitlement to the recovered property, the muddemal property was directed to be retained at the police station.

6. The Petitioner preferred an application for return of yellow-metal ingot. Learned Magistrate rejected the application as the ownership of the yellow-metal ingot was not established, and, thus, directed that the said ingot be sent

to the Mint. The fact that the property was not recovered in the original form and it was not recovered from the accused who admitted the guilt, but from Mr. Soni, weighed with the learned Magistrate in rejecting the application.

7. Learned Sessions Judge found no fault with the order passed by the learned Magistrate and rejected the revision application.

8. Mr. Parihar, learned Counsel for the Petitioner, submitted that, the learned Magistrate as well as the learned Additional Sessions Judge have adopted hyper-technical approach. Both the accused, at whose instance, yellow-metal ingot was recovered, and the jeweller from whom the said property was recovered, have given no objection to return the property to the first informant. In these circumstances, when there was neither any objection from the IO, nor from the accused and the person to whom the accused had allegedly delivered the property, the Courts below could not have rejected the prayer of the first informant. The mere fact that the property was recovered in a form different than the original ornaments, cannot be a ground to jettison away the claim of the first informant, submitted Mr. Parihar.

9. In opposition to this, Mr. Haldankar, learned APP made an endeavour to support the impugned order. It was submitted that, though there was no objection to the return of the property by the IO, the accused and jeweller, from whom it was recovered, yet, it cannot be said that the Petitioner – first informant had succeeded in establishing the ownership over the property.

10. I find it rather difficult to accede to the submission of the learned APP. In the first information report, the Petitioner had furnished the description of the ornaments with sufficient clarity. By and large, the weight of the gold ornaments matches with the weight of the yellow-metal ingot, which was recovered from Mr. Soni, pursuant to the disclosure statement made by the Shahzad Kallan Sayyed (A1). It is trite, while deciding an application for return of the property, the court can look into the statements of the witnesses recorded and the material collected during the course of the investigation. Mr. Gopal Soni has stated before the police in clear and explicit terms that Shahzad Kallan Sayyed (A1) had delivered gold ornaments to Zulfikarali (A2) who, in turn, converted and melted those ornaments into ingot and sold the same to Mr. Soni. The latter stated in clear and unequivocal terms that, he had no objection to return the said ingot to the respective victims. The accused had also categorically stated that, they had no objection to return the yellow-metal ingot to the first informant.

11. In the face of the aforesaid material, the Courts below were not justified in rejecting the application for return of the property. There was no rival claimant. The claim of the first informant was substantiated not only by the instantaneous lodging of the report, but also by the judgment of conviction of the accused. In addition, the first informant had placed on record documents to substantiate the claim of acquisition of the gold ornaments.

12. I find substance in the submission of the learned Counsel for the Petitioner that, the mere fact that the stolen property was not recovered in the very original form cannot be a ground to reject the application for return of the property.

13. A useful reference can be made to the judgment of the Supreme Court in the case of **Sunderbhai Ambalal Desai V/s. State of Gujarat**¹, wherein the Supreme Court enunciated the law as under :

“Valuable Articles and Currency Notes

11. With regard to valuable articles, such as golden or silver ornaments or articles studded with precious stones, it is submitted that it is of no use to keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C. at the earliest.

12. For this purposes, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:-

- (1) preparing detailed proper panchanama of such articles:
- (2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and
- (3) after taking proper security.

13. For this purpose, the Court may follow the procedure of

¹ (2002) 10 SCC 283

recording such evidence, as it thinks necessary, as provided under Section 451 Cr.P.C. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The Court should see that photographs or such articles are attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the Court under Section 451 Cr.P.C. to impose any other appropriate condition.”

emphasis supplied)

14. The Writ Petition, therefore, deserves to be allowed.

15. Hence, the following order :

ORDER

(i) The Writ Petition stands allowed.

(ii) The impugned orders dated 1 July 2024 and 16 January 2023 stand quashed and set aside.

(iii) The yellow-metal ingot be returned to the Petitioner – first informant, on furnishing an indemnity bond in the sum of Rs.6,00,000/- to the satisfaction of the learned Magistrate.

(N.J.JAMADAR, J.)