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MCRC-48689-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 18th OF NOVEMBER, 2025MISC. CRIMINAL CASE No. 48689 of 2025*SONU**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Manish Yadav- Advocate for the applicant.

Shri Amit Rawal- GA for the State.
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ORDER

1. The petitioner under section 528 of the BNSS, 2023 has been filed by the petitioner feeling aggrieved by the order dated 06/10/2025 passed by First Additional Sessions Judge, Narsinghgarh, District – Rajgarh in S.T. no. 258/2025, whereby the application for release of seized gold and silver jewellery articles was dismissed.

2 The exposition of fact giving rise to present petition, in brief, is as under:-

A. Sub-Inspector Dharmendra Sharma reported to the Police Station – Boda, District – Rajgarh that they have conducted a raid at the house of suspect Sonu and Ravi @ Kala @ Kamlesh in relation to Crime no. 5 of 2025 registered at Police Station – Civil Line, Bhatinda (Punjab) for offence punishable under sections 305 and 331 of the BNS, 2023. The suspect Sonu, Ravi @ Kala and their family members Heena, wife of Solu, Rajkumari, mother of Sonu and Kalawati, mother-in-law of Sonu started interfering in performance of public duties by police officials and abused the



police officials in filthy language. Sonu and Ravi escaped taking benefit of crowd. During search of the house of Sonu, the gold and silver jewellery articles were recovered. No bills or documents with regard to possession of gold and silver jewellery articles were found, therefore, suspecting the jewellery as articles of theft, they were seized under section 35 (1)(2) of the BNSS, 2023. The Police Station – Boda, District – Rajgarh registered FIR for offence punishable under sections 296, 191(2), 132, 303(2) of the BNS, 2023 and section 35(1)(2) of the BNSS, 2023 against Sonu, Ravi @ Kala @ Kamlesh, Heena, Rajkumari, Kalawati and other unknown offenders. Sonu, Ravi, Heena, Rajkumari and Kalawati were arrested. The statement of the witnesses were recorded. Certain documents were produced on behalf of the accused, which were verified from the concerned jewellers. Although the jewellers had verified the bills, but it suspected by the Investigation Officer, as no regular bills or carbon copy of the bills were available with the jewellers. The final report was submitted on completion of investigation on 10/07/2025 against Sonu, Ravi @ Kala @ Kamlesh, Heena, Rajkumari and Kalawati for offence punishable under sections 296, 191(2), 132, 303(2), 317(2) and 317(4) of the BNS, 2023.

3. Learned counsel for the petitioner, in addition to the grounds mentioned in the petition contends that the petitioner is falsely implicated in the alleged offence to justify the wrongful acts of police officials. No one has ever claimed ownership of the seized jewellery articles. The petitioner is rightful owner of the jewellery articles. The trial Court has committed error in rejecting the application for release of gold and silver jewellery articles on Supurdagi.

4. Section 314 of the BNS, 2023 deals with dishonest misappropriation of property. Section 317 of the BNS, 2023 deals with offence relating to



stolen property. For constituting these offences, there must be a rightful owner / possessor of the property alleged to be misappropriated or stolen.

5. Shri Rakesh Sharma, SDO(P), Biora, the Investigation Officer appeared before the Court, but he was at loss to explain the investigation with regard to rightful owner of the property. He fairly stated that he could not trace any complainant, who has alleged that the seized gold and silver jewellery articles were stolen from his possession or he had handed over the custody of the seized articles and they were misappropriated. The trial Court has ignored this important aspect of the matter.

6. The police station – Boda sought verification of the bills from the concerned jeweller. They have verified the bills, but verification report was suspected by the Investigation Officer and the trial Court accepted his suspicion regarding non-availability of bill book or carbon copy with the jeweller. Be that as it may. The alleged jewellery articles were seized from the house of petitioner and the concerned jewellers have prima-facie verified the bills. The seized jewellery articles cannot be kept in the custody of police, indefinitely, in anticipation that the complainant would come forward to claim rightful possession of the seized jewellery articles. In absence of any complainant, the question of identification of the seized articles during trial would not arise.

7 . In *Sunderbhai Ambalal Desai v. State of Gujarat*, reported in (2002)10 SCC 283, the Supreme Court dealt with seized valuable articles and held as follows:

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, the Magistrate should pass appropriate orders as contemplated under Section 451 CrPC at the earliest.

12. For this purpose, 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 panchnama 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 recording such evidence, as it thinks necessary, as provided under Section 451 CrPC. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The court should see that photographs of 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 CrPC to impose any other appropriate condition.

14. In case, where such articles are not handed over either to the complainant or to the person from whom such articles are seized or to its claimant, then the court may direct that such articles be kept in bank lockers. Similarly, if articles are required to be kept in police custody, it would be open to the SHO after preparing proper panchnama to keep such articles in a bank locker. In any case, such articles should be produced before the Magistrate within a week of their seizure. If required, the court may direct that such articles be handed back to the investigating officer for further investigation and identification. However, in no set of circumstances, the investigating officer should keep such articles in custody for a longer period for the purposes of investigation and identification. For currency notes, similar procedure can be followed.

8. In view of the aforestated discussions, this Court is of the considered opinion that learned first Additional Sessions Judge, Narsinghgarh, District – Rajgarh has committed manifest impropriety and patent illegality in rejecting the application for release of seized jewellery articles on Supurdagi, therefore, the impugned order dated 06/10/2025 passed by First Additional Sessions Judge, Narsinghgarh, District – Rajgarh in S.T. no. 258 of 2005 is hereby set aside.

9. Consequently, it is directed that subject to submission of appropriate Supurdagi bond and a surety bond to the satisfaction of the trial Court, for compliance with the conditions as may be imposed by the trial Court to ensure safe custody and production at the time of evidence, the seized gold



and silver jewellery articles be released on Supurdagi in interim custody till conclusion of the criminal trial.

10. With the aforestated directions, present petition stands disposed of.
CC as per rules.

(SANJEEV S KALGAONKAR)
JUDGE

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