

**IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI**

**Present: E. Pravin Kumar, B.A.,B.L.,**

**Judicial Magistrate No.V, Madurai**

**Tuesday 1st day of December 2020**

**Crmp.No.1116/2020**

**Thangam,**

**S/o. Pappu Thevar**

**...Petitioner/ Owner**

**vs**

**State rep. by Inspector of police,**

**S.S.Colony crime Police Station,**

**Crime No.1736/2020**

**U/sec. 380, 302 IPC**

**... Respondent/Complainant**

**For petitioner/accused: Mr.P.Rajendran,Advocate**

**For Respondent/Complainant: Mrs.R.Thilagarani,M.L.,Grade II Assistant Public**

**Prosecutor**

**01.12.2020**

**ORDER**

**1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Gold ingot sovereign of 45.900 gram and Cash Rs.30,000/- remanded in R.P.R.No.410/2020 as interim custody to the petitioner.**

**2. Notice issued and the prosecution has filed their reply.**

**3. The learned counsel for the petitioner would contend that the case property belonged to the petitioner. This petitioner is the owner of the property. FIR was registered in Crime No.1736/2020 in the file of S.S.Colony crime Police Station, for offence U/sec. 380, 302 IPC and now the property is said to have been seized by the police and handed over in court. The property mentioned in this petition is not involved in any way in this case. Hence, the petitioner prays that this petition may be allowed.**

**4. On the other hand the prosecution strongly object to return the property to the petitioner/complainant for the following reason. As Io's report investigation is pending in stage. The above said properties are material object of this case. If the properties are returned to the petition. He may alienate the above said property and he may not produced at the trial. Hence this petition may be dismissed.**

.2.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence, and the petitioner is the defacto complainant of this case. Further the Hon'ble Supreme Court of India in the recent decision as reported in 2003(1) C.T.C page 175-Sundarbhai Ambalal Desai Vs.state of Gujarat has laid down certain guidelines to the Magistrates to hand over the properties at the pre-trial stage. Taking all the facts and circumstances of this case and guidelines issued by the Hon'ble Supreme Court of India it will be just and proper to hand over the property to the petitioner herein as interim custody. After all, the petitioner is going to hold the property in the capacity of a bailee or trustee.

6. In the result, the case property Viz for returning of the property viz viz Gold ingot sovereign of 45.900 gram and Cash Rs.30,000/- remanded in R.P.R.No.410/2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The number of the currency notes are to be entered in the RPR Register. The petitioner shall produce the photograph of the property and panchanama with the denominations and the number of currency notes shall be prepared.
2. The Petitioner/Owner has to execute bond for himself with one another surety for a sum of Rs.2,22,000/- each
3. The payment of Rs.30,000/- to be made to the petitioner herein is subject to the outcome of the result of the trial in this Crime No.1736/2020.
4. He shall produce the same as and when required in court.

Dictated by me to the Steno-typist and typed by her in computer directly and corrected and pronounced by me in open court on this 1st day of December 2020.

(Sd-E.Pravinkumar)  
Judicial Magistrate No. V,  
Madurai.

