

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Wednesday 16th day of December 2020

Crmp.No.1523/ 2020

Askander Sherif,  
S/o. Munaver Hussain

...Petitioner/ Owner

vs

State rep. by Inspector of police,  
Thideernagar Crime Police Station,  
Crime No.912/2020  
U/sec. 381 IPC

... Respondent/Complainant

For petitioner/accused: Mr.B.Saravanakumar, M.A., B.L.,

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

**16.12.2020**

**ORDER**

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Five sovereign of gold Bracelet remanded in R.P.R.No.428 /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 defacto complainant. FIR was registered in Crime No.912/2020 in the file of Thideernagar Crime Police Station, for offence U/sec.381 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 has stated that as per IO's report this petitioner is a defacto complainant. If the property is returned to the petitioner. He may alienate the above said property. And he may not produced at the trial. Hence prosecution strongly object to return the property. Hence this petition may be dismissed.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence and 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 Five sovereign of gold Bracelet remanded in R.P.R.No.428/2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The petitioner shall produce the photograph of the property and panchanama.
2. The Petitioner/Owner has to execute bond for himself with one another surety for a sum of Rs.1,75,000/-each.
3. He shall not alienate or change the nature of the property without permission of this court.
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 16th day of December 2020.

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