

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Wednesday 02nd day of September 2020

Crmp.No.637/ 2020

Ranjithkumar  
S/o.Malaichamy

...Petitioner/ Owner

vs

State rep. by Inspector of police,  
Oomatchikulam Police Station,  
Crime No.64/2020  
U/sec. 392 IPC

... Respondent/Complainant

For petitioner/accused: Mr.A.Srinivasan, B.Sc.,B.L., Advocate

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

**02.09.2020.**

**ORDER**

1. This petition is filed U/s.457 and 451 IPC For returning of the property viz 1 1/2 Sovereign of Gold chain remanded in R.P.R.No.259/2020 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 complainant in this case . This petitioner lodged complaint in FIR in Crime No.64/2020 on the file of Oomatchikulam Police Station for offence U/sec. 392 IPC, and now the property is said to have been recovered from the accused as gold chain basing on accused confession and seized by the police and handed over in court. Hence, considering the above facts and that the petitioner is the owner of the property he prays that this petition may be allowed.

4. On the other hand the prosecution has stated in their reply that the petitioner is defacto complainant. After due verification of ownership and identify of the above said property this Hon'ble Court may passed appropriate order. And any condition may be passed by his Hon'ble Court.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence and that the petitioner is the defacto- complainant. 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. 1 1/2 sovereign of Gold chain remanded in R.P.R.No.259/2020 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. 54,000/- 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.

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