



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

CRIMINAL PETITION NO.9356 OF 2025 (482(CR.PC)/
528(BNSS))
C/W CRIMINAL PETITION NO.9844 OF 2025

IN CRL.P NO. 9356/2025
BETWEEN:

M/S. REWARD360 GLOBAL SERVICES PVT. LTD.,
HAVING OFFICE AT: FORTUNE SUMMIT BUSINESS PARK,
PLOT NO.244, 6TH FLOOR,
WEST SIDE, HOSUR RD, BENGALURU-560 068.
REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE
MR. TENZIN KHANGSAR.

...PETITIONER

(BY SRI.GAURAV GANAPATHY C.G, FOR
SRI.ANAND MUTTALLI, ADVOCATES)

AND:

1. STATE OF KARNATAKA
R/BY SOUTH EAST CEN POLICE STATION,
THROUGH STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU - 560 001.
2. LAKSHMIPATHI, S/O. DHAMODHAR NAIDU,
AGED ABOUT 23 YEARS, R/AT.NO.3-8,
CR KANDIGA JANGAMAIAHGARI OORU,
PENAMURU, CHITOOR, ANDHRA PRADESH-517 001.

...RESPONDENTS

(BY SRI.ANOOP KUMAR M.V., HCGP FOR R1;
SRI.P.PRASANNA KUMAR, SR. COUNSEL FOR
SRI.CHETAN JADHAV, ADVOCATE FOR R2)

THIS CRL.P IS FILED UNDER SECTION 482 CR.PC,1973,
PRAYING TO I. CALL FOR THE RECORDS IN C.C.NO.11286/2024





NC: 2026:KHC:9002
CRL.P No. 9356 of 2025
C/W CRL.P No. 9844 of 2025

PENDING BEFORE THE 45TH ADDITIONAL CHIEF JUDICIAL MAGISTRATE. II. SET ASIDE THE IMPUGNED ORDER DATED 19.04.2025 PASSED BY THE HON'BLE 45TH ADDITIONAL CHIEF JUDICIAL MAGISTRATE IN C.C.NO.11286/2024, WHEREIN THE TRAIL COURT HAS REJECTED THE APPLICATION FILED BY THE PETITIONER UNDER SECTION 451 R/W. 457 OF CR PC (ANNEXURE A). III. DIRECT THE RESPONDENT POLICE TO RELEASE THE SEIZED ARTICLES SUBJECTED TO PF NO.43/2023, PF NO.44/2023, PF NO.45/2023, PF NO.46/2023 MENTIONED IN THE TABLE BELOW IN FAVOUR OF THE PETITIONER.

<u>SL. NO.</u>	<u>DATE</u>	<u>PF NO.</u>	<u>ARTICLE</u>	<u>ITEM NO.</u>	<u>QUANTITY</u>
1.	04/09/2023	43/2023	GOLD	1,2,8,12,13,16,18,20,21,22,23,25,26,27,28,29,30,31,32,33,34,35,36,37,40,43	143 GRAMS
2.	04/09/2023	43/2023	SILVER	3,4,5,6,7,9,10,11,14,15,17,19,24,38,39,41,42,44	11,250 GRAMS
3.	05/09/2023	44/2023	GOLD	22	100 GRAMS
4.	05/09/2023	44/2023	GOLD	21	30 GRAMS
5.	05/09/2023	45/2023	GOLD	2,3,4,5,6,7,8,9	3007.24 GRAMS
6.	06/09/2023	46/2023	GOLD	1,2,3,4,5,6,7,8,9	1997.10 GRAMS
7.	06/09/2023	46/2023	SILVER	10,11	16 KG
8.	05/09/2023	44/2023	CASH	19	RS.48,800/-
9.	05/09/2023	44/2023	CASH	18	RS.20,500/-
10.	05/09/2023	44/2023	CASH	20	RS.43,700/-
11.	05/09/2023	45/2023	CASH	1	RS.10,00,000/-

IN CRL.P NO. 9844/2025
BETWEEN:

B. LAKSHMIPATHI
S/O. B. DAMODAR NAIDU,
AGED ABOUT 25 YEARS,
OCCUPATION: BUSINESS, R/O NO.3-8,
C.R. KANDIGA, JANGAMAIAHGARI OORU,
PENUMURU, CHITTURU, ANDRA PRADESH-517126.
PRESENTLY RESIDING AT NO.604,
H.R.COVIN, P.G., WHITE ROSE LAYOUT,



NC: 2026:KHC:9002
CRL.P No. 9356 of 2025
C/W CRL.P No. 9844 of 2025

WHITE FIELD, BENGALURU-560066.

...PETITIONER

(BY SRI.P.PRASANNA KUMAR, SR. COUNSEL FOR
SRI.CHETAN JADHAV, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY SOUTH EAST CEN P.S,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU-560001.

2. MRS.BEDISHA KARMAKAR,
W/O. KARMAKAR, AGED ABOUT 40 YEARS,
OCCUPATION: EMPLOYEE IN PVT. FIRM,
R/O. FORTUNE SUMMIT BUSINESS PARK,
HOSUR MAIN ROAD, BENGALURU-560030.

...RESPONDENTS

(BY SRI.ANOOP KUMAR M.V., HCGP FOR R1;
SRI.GAURAV GANAPATHY C.G., FOR
SRI.ANAND MUTTALLI, ADVOCATE FOR R2)

THIS CRL.P IS FILED UNDER SECTION 482 OF CR.P.C,
PRAYING TO CALL FOR THE RELEVANT RECORDS AND TO SET
ASIDE THE ENTIRE ORDER DATED 19.04.2025 PASSED BY THE
LEARNED XLV ADDL CJM, BENGALURU IN C.C.NO.11286/2024
THEREBY REJECTING THE APPLICATION DATED 27.05.2024 FILED
BY THE PETITIONER UNDER SECTIONS 451,457 OF CR.P.C. FOR
RELEASE OF ARTICLES IN P.F.NOS.43, 45, 46/2023 WITH A
DIRECTION TO RELEASE THE ARTICLES OF THE PETITIONERS, IN
THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THESE CRIMINAL PETITIONS HAVING BEEN HEARD AND
RESERVED ON 02.12.2025, COMING ON FOR PRONOUNCEMENT OF
JUDGMENT THIS DAY, COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ



CAV ORDER

1. These Criminal Petitions arise out of a common order dated 19.04.2025 passed by the learned XLV Additional Chief Judicial Magistrate, Bengaluru. Since the reliefs sought in both the petitions are indetical and arise out of the same set of facts, they are taken up together and disposed of by this common order.

2. CrI.P. No.9356/2025 is filed by M/s Reward 360 Global Services Private Limited, the de-facto complainant, whereas CrI.P. No.9844/2025 is filed by Sri Bodhuluru Lakshmipathi, the accused, in respect of the very same crime.

3. The petitioners have invoked the inherent jurisdiction of this Court under Section 482 of the Cr.P.C (Section 528 of the BNSS, 2023) seeking to set aside the impugned order and for consequential release of the seized articles.



4. The criminal proceedings arise out of Crime No.1141/2023 registered by the South East CEN Crime Police Station, Bengaluru, for the offences punishable under Sections 419 and 420 of the Indian Penal Code, 1860 and Sections 43, 66 and 66(C) of the Information Technology Act, 2000, in respect of alleged incidents stated to have occurred between 12.05.2023 and 24.06.2023.

5. The complaint came to be lodged on 24.06.2023 by Ms. Bedisha Karmakar against two accused persons, namely Sri Bodhuluru Mohan (Accused No.1) and Sri Bodhuluru Lakshmipathi (Accused No.2).

6. Upon completion of investigation, the jurisdictional police have laid the charge sheet for the offences punishable under Sections 419 and 420 of the IPC and Sections 43, 66, 66(C) and 66(D) of the Information Technology Act, 2000, against Sri



Bodhuluru Lakshmipathi alone, who is the petitioner in Crl.P. No.9844/2025.

7. During the course of investigation, certain articles were seized and produced before the jurisdictional Court under Property Forms bearing Nos.43/2023, 44/2023, 45/2023 and 46/2023.

8. Both the de-facto complainant and the accused filed separate applications under Sections 451 and 457 of the Code of Criminal Procedure seeking interim custody and release of the seized articles.

9. The learned XLV Additional Chief Judicial Magistrate, by a common order dated 19.04.2025, rejected both the applications. Being aggrieved by the said order, the petitioners are before this Court in the respective Criminal Petitions.

10. Heard the learned counsel for petitioners, learned High Government Pleader for the



State/respondent No.1, the learned counsel for respondent No.2 and perused the material on record.

11. It is the case of prosecution that, the de-facto complainant, M/s Reward360 Global Services Private Limited, is engaged in providing promotional rewards, incentives and gift vouchers to its clients, enabling customers to redeem reward points for e-commerce vouchers through its web portal, which process is managed through an ERP software system. It is averred that the company had entered into an agreement with ICICI Bank, pursuant to which the bank's account holders could redeem reward points accrued through debit/credit card usage to obtain various e-commerce gift vouchers issued by the complainant company. The vouchers, being single-use, were transmitted to customers through e-mail along with redemption PINs. It is alleged that during the relevant period, the accused, by gaining unauthorised access to the e-mail ID udithebhemaanaik@yahoo.com through the assistance



of a third party, accessed the complainant company's web portal and, by using software tools, manipulated URL payload data and altered order IDs, thereby causing the delivery of unredeemed vouchers running into several lakhs to the said e-mail ID and thereafter redeemed the said vouchers through multiple e-mail accounts into wallets of various e-commerce platforms and utilised the proceeds to purchase gold, silver, vehicles and other articles, thereby causing wrongful loss to the complainant company and its customers and wrongful gain to himself. It is alleged that during investigation, gold weighing 5.26947 kg, silver weighing 27.250 kg, cash of ₹11,13,000/- and eight two-wheelers were seized from the possession of the accused.

12. Learned counsel appearing for the petitioner/de-facto complainant in CrI.P.No.9356/2025 would contend that a perusal of the charge-sheet material would prima facie establish that the seized articles were procured by the accused by fraudulent



misuse of the reward vouchers generated and issued by the petitioner company and, therefore, the petitioner is the person entitled to interim custody of the said articles. It is submitted that the charge-sheet contains an incident report explaining the manner in which the accused manipulated the system and redeemed unre-deemed vouchers, which resulted in the purchase of the seized articles. It is contended that the accused, in his voluntary statement recorded during investigation, has admitted the modus operandi adopted by him in exploiting system vulnerabilities and in misappropriating vouchers belonging to the petitioner company. It is further submitted that the accused has admitted to redeeming the vouchers through multiple e-mail IDs and utilising the same for placing orders on e-commerce platforms to procure gold, silver, two-wheelers and other articles, some of which were later sold to third parties. The said admissions are



corroborated by statements of other witnesses and transaction records collected during investigation.

13. Learned counsel would further contend that the seizure mahazars clearly disclose that certain articles were intercepted and seized at the time of delivery itself, pursuant to orders placed by the accused using misused vouchers, even while the accused was in police custody. It is contended that the seized articles are directly traceable to the petitioner's digital assets and form the subject matter of the alleged fraud. It is further contended that the investigating agency has collected extensive documentary material, including transaction logs from e-commerce platforms, internal audit reports of the Petitioner Company and statements of third parties, which collectively establish that thousands of vouchers issued by the petitioner were fraudulently redeemed by the accused, causing substantial financial loss to the petitioner company. It is submitted that the



extent of loss has been assessed at a significantly higher figure after a detailed internal audit.

14.Learned counsel would also contend that the Investigating Officer himself has indicated that the seized articles may be released in favour of the petitioner, subject to verification, and has opposed the claim of the accused for custody. It is contended that the accused has not produced any lawful proof of purchase or evidence of payment from his own funds in respect of the seized articles and that his claim of ownership is wholly untenable. It is urged that the learned Magistrate has failed to consider the material collected during investigation and has rejected the petitioner's application solely on the ground of a rival claim raised by the accused. It is contended that the applications filed under Sections 451 and 457 of the Code of Criminal Procedure are for grant of interim custody and not for final adjudication of title, and that the learned Magistrate has misdirected himself by



treating the proceedings as one for determination of ownership.

15. Learned counsel would contend that continued retention of the seized articles would result in financial and reputational prejudice to the petitioner, whereas release of the articles in favour of the petitioner, subject to appropriate conditions, would not cause any prejudice to the accused or the prosecution. It is further submitted that the petitioner is willing to abide by any conditions that may be imposed by this Court, including preservation of the identity and nature of the seized articles.

16. Learned Counsel has placed reliance on the following judgments:-

- i. ***Sunderbhai Ambalai Desai v. State of Gujarat*** reported in **(2002) 10 SCC 283**
- ii. ***Anisa Begum v. Masoom Ali and ors*** in Crl.R.P.No.33/1985, DD. 08.11.1985.
- iii. ***Muthoot Money limited v. The State of Karnataka***, passed by Co-ordinate bench of this Honble Court in **Writ Petition No.**



NC: 2026:KHC:9002
CRL.P No. 9356 of 2025
C/W CRL.P No. 9844 of 2025

**100245/2025 (GM-Police), DD-
02.06.2023.**

iv. ***M/S Viswas Textile Processors v. State of Karnataka***, passed by Co-ordinate bench of this Honble Court in **Criminal Petition No. 8041/2021, DD-23.08.2023.**

17. Learned counsel for the petitioner/accused in Crl.P. No.9844/2025 contends that the impugned order passed by the learned Magistrate is contrary to the facts, materials on record and the settled principles governing exercise of power under Sections 451 and 457 of Cr.P.C., and has resulted in a miscarriage of justice. It is submitted that the seized articles were taken from the custody of the petitioner, who claims to have purchased the same from his lawful earnings, including income from stock market trading, and that documentary material was produced to substantiate such claim. The learned Magistrate, however, rejected the application solely on the ground of a rival claim by the complainant,



without noticing that interim custody proceedings do not require adjudication of title or a detailed trial. It is further urged that no cogent material was placed by the complainant to establish ownership of the seized articles or to substantiate the alleged loss, and therefore, the rejection of interim custody on such grounds is unsustainable.

18. It is further contended that the learned Magistrate, while relying upon the principles laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat [(2002) 10 SCC 283]***, had released other movable properties such as vehicles and documents in favour of the petitioner, but adopted an inconsistent approach in refusing release of the valuable articles in question. It is urged that, the continued retention of such valuables in police custody is neither safe nor justified, particularly when the petitioner has expressed willingness to abide by any conditions and



furnish security as may be directed by the Court. It is submitted that courts ordinarily grant interim custody to the person from whose possession the articles were seized, subject to safeguards, and the failure to do so in the present case amounts to an erroneous exercise of jurisdiction, warranting interference by this Court.

19. Learned High Court Government Pleader appearing for the respondent-State opposes the petitions and supports the impugned order passed by the learned Magistrate. It is contended that the seized articles form part of the subject-matter of the crime and constitute material evidence in a case involving serious allegations of cheating, impersonation and offences under the Information Technology Act. The seizure has been effected during the course of investigation under proper mahazars and the articles are required to be preserved for the purpose of trial. It is submitted that release of the seized properties at this stage may adversely affect the prosecution case and may result in loss of crucial evidence. It is further



contended that though a charge sheet has been filed, further investigation is still pending under Section 173(8) of the Cr.P.C, particularly with regard to tracing the proceeds of crime, verification of additional transactions, and identification of other properties allegedly acquired through the fraudulent activity. In view of the pending further investigation and rival claims over the seized articles, the learned Magistrate was justified in declining to grant interim custody. The learned HCGP therefore submits that no interference is called for in exercise of the inherent jurisdiction of this Court.

20. Since both petitions arise out of a common order passed by the learned Magistrate and relate to the very same seized properties, they are considered together. However, having regard to the nature of claims and the relief sought, the entitlement of the petitioners is required to be examined independently.



21. Sections 451 and 457 of the Code of Criminal Procedure confer discretionary power upon the criminal court to pass appropriate orders regarding custody, disposal or interim release of property seized during investigation. The object underlying these provisions is to ensure that the seized property is not allowed to deteriorate or remain idle in police custody, thereby causing avoidable loss to the person entitled to possession.

22. The Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai's*** case (supra), has authoritatively laid down the guiding principles governing release of seized property. The Apex Court held as follows:

" 7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

- 1. owner of the article would not suffer because of its remaining unused or by its misappropriation;*



2. *court or the police would not be required to keep the article in safe custody;*
3. *if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*
4. *this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.*

8. *The question of proper custody of the seized article is raised in a number of matters. In Basavva Kom Dyamangouda Patil v. State of Mysore [(1977) 4 SCC 358 : 1977 SCC (Cri) 598] this Court dealt with a case where the seized articles were not available for being returned to the complainant. In that case, the recovered ornaments were kept in a trunk in the police station and later it was found missing, the question was with regard to payment of those articles. In that context, the Court observed as under: (SCC p. 361, para 4)*

"4. The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police it ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two



stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of the Code is that the articles concerned must be produced before the court or should be in its custody. The object of the Code seems to be that any property which is in the control of the court either directly or indirectly should be disposed of by the court and a just and proper order should be passed by the court regarding its disposal. In a criminal case, the police always acts under the direct control of the court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the court exercises an overall control on the actions of the police officers in every case where it has taken cognizance."

9. *The Court further observed that where the property is stolen, lost or destroyed and there is no prima facie defence made out that the State or its officers had taken due care and caution to protect the property, the Magistrate may, in an appropriate case, where the ends of justice so require, order payment of the value of the property.*

10. *To avoid such a situation, in our view, powers under Section 451 CrPC should be exercised promptly and at the earliest.*

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, 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.

21. *However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly."*

23. The Supreme Court further clarified that at the stage of considering an application under Sections 451 or 457 Cr.P.C., the court is not required to conduct a detailed enquiry into title or ownership, and that a



prima facie assessment of entitlement and safety of the property would suffice.

24. In ***Muthoot Money limited v. The State of Karnataka***, passed by Co-ordinate bench of this Honble Court in **Writ Petition No. 100245/2025 (GM-Police), DD- 02.06.2023**, relevant paragraphs are extracted hereunder:

" This was following the judgment of the Apex Court in the case of SUNDERBHAI AMBALAL DESAI. A learned single Judge in a subsequent order passed in CRIMINAL REVISION PETITION NO.210 OF 2024, disposed on 04.10.2024, while dealing with an identical circumstance has laid down certain guidelines. I deem it appropriate to notice the same. They read as follows:

47. As such, the following directions are issued which would cover in general the disposal of the properties as is contemplated under Section 451 and 457 of Cr.P.C., and presently under the provisions of Section 497 of 30 Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short).

Directions/Guidelines:

(1) Description of the seized property shall be incorporated in the seizure mahazar so as to distinctly identify the seized property at all stages in the criminal trial.

(2) Mahazar shall include, serial numbers, make of the seized property, manufacturers name, if any,



distinctive marks, if any, hall mark, if any, on the gold and silver articles with distinct numbers.

(3) Mahazar shall include, approximate value of the seized property (estimation of valuation to be obtained from the registered valuers wherever necessary). It shall accompany the P.F. Memo when it is placed before the learned Trial Magistrate.

(4) Trial Magistrate shall verify the contents of mahazar with aforesaid details and personally examine the seized properties and satisfy that the seized properties are tallying with the description made in the mahazar and P.F. Memo.

(5) Unless a specific grounds/reasons are made out by the Investigating Agency, seized property shall not be allowed to be retained by the Investigating Agency.

(6) Even if the request for retention is allowed, the learned Trial Magistrate instead of passing a mechanical order by initialing on the readymade seal with words 'permitted to retain', pass a suitable speaking order in the order sheet of the case, directing the Investigating Agency that they would be retaining the property as a 'Bailee' and ensure that proper care is taken to preserve the seized property.

(7) Learned Trial Magistrate shall ensure that proper infrastructure is available with the police for preservation of the seized material objects and must report to the Court as to its status when the charge sheet is filed.

(8) If the seized property is sent to the Forensic Science Laboratory, Investigating Agency shall ensure that the property is sent in a proper sealed condition and seals are intact, at all levels.

(9) Whenever the property is ordered to be retained by the Investigating Agency, and if an



application seeking release is rejected, after the investigation, and if the need of retaining property is not imperative, the Court may pass suitable orders with regard to the interim disposal of the property.

(10) Learned Trial Magistrates/learned Sessions Judges are hereby directed to ensure the disposal of the property in respect of Narcotic drugs and psychotropic substances as per the directions of the Hon'ble Supreme Court in the case of Union of India vs. Mohanlal and another, reported in (2016) 3 Supreme Court Cases 379.

(11) In case of seizure of the vehicles, the standard operating procedure and the amendment to the Rule 232G of Karnataka Motor Vehicles (Amendment) Rules, 2018 shall be borne in mind by the learned Trial Magistrate while disposing the application filed under Section 451 and 457 Cr.P.C., or under Section 497 of BNSS.

(12) In respect of the electronic and digital material objects, the learned Trial Magistrate shall ensure that the same to be retained by the police under retention order to ensure that the same are not exposed to the atmospheric moisture, resulting in damage to the seized electronic equipment or data stored therein.

(13) Necessary directions in this regard shall be made in the order while P.F. Memo is filed into the Court seeking retention of the seized electronic items, Compact Disc, Pendrives and such other storage media when produced and ordered to be retained shall be properly preserved by taking necessary precautions so as to avoid the damage to the data stored therein which may have a direct bearing on the merits of the trial.

(14) Precious items like Gold, Silver shall not be ordinarily to be retained with the Investigating Agency unless the same is required for



investigation purpose like identity, finger print examination etc., and wherever it is necessary, photographs/videographs of the seized material objects can ordered to be returned to the applicant after deciding the rival claim, if any.

(15) *In respect of the explosives, inflammable substances, like adulterated petroleum products, gas cylinders etc, the learned Trial Magistrate shall ensure the safety of the seized material objects, not only the safety of seized material objects and possible accident in the place where it is stored and pass suitable orders.*

(16) *In respect of perishable items, the learned Trial Magistrate without loss of time, shall consider the application and pass suitable orders like auctioning the perishable items and directing the auction money to be kept in 'escrow account' subject to the final result of the criminal proceedings.*

(17) *In respect of the seized material objects under the special enactments like Essential Commodities Act etc., learned Trial Magistrate, shall strictly adhere to the rules and regulations under the special enactment and pass appropriate orders as early as possible.*

(18) *In respect of seized cash, photograph/ videograph of the currency notes to be taken and serial numbers of the seized currency notes shall be written in a mahazar. Immediate steps are to be taken to deposit the currency notes to Reserve Bank of India and value of the currency notes thereof shall be ordered to be returned to the successful party at the end of the trial."*

(Emphasis supplied)

At guideline No.14 supra, the coordinate bench holds that precious items like gold and silver shall not be ordinarily retained with the Investigating Agency unless the same is required for investigation purpose like identity, finger print



examination etc., and whenever it is necessary photographs/videographs of the seized material objects can be ordered to be returned to the applicant after deciding the rival claim, if any.

8. The High Court of Madras in **MUTHOOT FINCORP LIMITED v. INSPECTOR OF POLICE** , has held as follows:

".... 13. It is seen that the accused was arrested by the 1 st respondent Police, the accused gave confession. In his confession, he disclosed about the pledging of jewels with the petitioners, which were stolen by him from the house of the 2nd respondent. The accused gave the bill particulars of the jewels, which were pledged with the petitioners and the bill particulars. Thereafter, the 1st respondent Police issued summons on 11.08.2015 as per law. The petitioners are duty bound to produce the book of account, records, files and documents, which are necessary for investigation. Once it is proved that the jewels are stolen, the same are to be delivered to the police, if it is required.

14. In view of the same, the petitioners cannot raise any objection for issuance of summons and production of books and jewels. If the petitioners are aggrieved and feel that they have right over the properties, they can approach the concerned Court, to safeguard and secure their rights by filing appropriate petition. If the petitioners or any other person filed a petition seeking interim custody of the jewels, the concerned Court to issue notice to them and after enquiry to pass appropriate orders.

15. With the above observation, this Criminal Original Petition is disposed of. In view of the long pendency of FIR, the 1st respondent Police is to file a charge sheet within two months from the date of receipt of a copy of this order, before the concerned Court. The concerned Court is to conclude the trial within a period



of three months from the date of filing of charge sheet. Consequently, the connected Criminal Miscellaneous Petition is closed."

(Emphasis supplied)

9. Another coordinate bench in the case of *MUTHOOT FINANCE LIMIED v. STATE OF KARNATAKA* , has held as follows:

".... 7. During investigation, the Investigating Officer would be required to ascertain various aspects including the ownership of the said gold and it is for the Court seized of the matter to decide as to in whose favour the gold has to be returned, if an application under Section 454 of the earlier Code of Criminal Procedure and now Section 500 of the BNSS were to be filed. Of course, at that time the petitioner can always place its rights and claims before the said Court for being decided. The true owner of the gold cannot be deprived of the use of the gold, merely because the same is pledged with a gold finance company after being stolen from such true owner. The Gold Finance Company is vested with a duty to carry out proper due diligence before accepting the gold as a pledge for a loan disbursed.

8. There are innumerable matters coming up before this court where stolen gold is pledged with a gold finance company. I'am of the considered opinion that this aspect would have to be examined by the concerned authorities and proper guidelines have to be formulated in relation to such pledging of gold, ascertainment of ownership, identity of the person pledging the gold, implication of pledging stolen gold, manner of dealing with such gold when criminal proceedings are taken up etc.,. Therefore, I request the Law Commission, Karnataka to look into this matter and formulate necessary guidelines/rules or the like as deemed fit.



9. In that view of the matter, directing the petitioner to co-operate with the Investigating Officer and make available all the details relating to the pledge as also permit the inspection of the gold, which if required the Investigation Officer can take receipt of and deposit with the Court seized of the matter, on coming to the conclusion that the said gold is stolen, it is made clear that the police officer cannot retain the gold in his possession, but would have to deposit the same with the court seized of the matter. The court seized of the matter while considering any application for release of the gold or at the time when the court were to pass an order of release for any reason whatsoever, would have to issue notice to the Petitioner and afford an opportunity of hearing to the petitioner before ordering the release. With the above observations, the writ petition stands disposed of."

(Emphasis supplied)

The coordinate bench holds that the true owner of the gold cannot be deprived of the use of gold, merely because it is pledged with the finance company. The petitioner can approach the concerned trial Court seized of the matter and file an application under Sections 451 and 457 of the Cr.P.C. and place its rights and claims before the said Court.

10. The learned counsel for the petitioner submits that this Court must permit gold to be in the hands of the pledgee i.e., Muthoot Finance as is ordered in every case. The said submission is not acceptable. The coordinate benches of this Court have laid down guidelines as quoted supra and have directed that the finance company should approach the concerned Court under Sections 451 and 457 of the Cr.P.C. by filing application. A division bench of the High Court of Bombay again in the case of **MANAPPURAM FINANCE LIMITED v. STATE PUBLIC PROSECUTOR**, has held as follows:



".... 2. The petitioner claims that some gold, which is the subject matter of criminal breach of trust has been pledged with the petitioner. Based in this the petitioner seeks a writ of mandamus commanding respondent No.2 i.e., the Police Inspector, Ponda Police Station not to take possession of the gold ornaments which the petitioner claims are legally pledged with the petitioner. This petition has been instituted in respect to an order dated 3-12-2022 issued by the IO to the petitioner requiring the petitioner to produce the gold ornaments and all the documents in terms of Section 91 and 102 of the Criminal Procedure Code (Cr.P.C.). The notice refers to the FIR dated 2-12-2022 alleging an offence under Section 406 of the IPC.

3. In our opinion, this petition is misconceived. The issues as to whether the gold ornaments which are the subject matter of the criminal breach of trust are indeed pledged with the petitioner or not, terms of such pledge, etc., cannot be gone into by us in the exercise of our extraordinary jurisdiction. This would involve disputed questions which cannot be adequately resolved in the absence of such alleged pledgors who have not even been impleaded as parties to this petition. In any case, we are satisfied that the petitioner has alternate and efficacious remedies available to it under the provisions of the CrPC where, all such issues can be considered threadbare. For instance, under Section 451 of the CrPC the Criminal Court during an inquiry or trial can make necessary orders for proper custody of the property produced before. Similarly, the provisions of Section 457 deal with the procedure of the Police upon seizure of property.

4. Mr. Gaonkar also places on record a decision of the Hon'ble Supreme Court in Sunderbhai Ambalal Desai v. State of Gujarat – (2002) 10 SCC 283 which is concerned with the disposal of muddemal articles, kept in policy custody, pending trial. In this decision the Hon'ble Supreme Court has held that the object and



scheme of the various provisions of the Code appear to be that where the property which has been the subject matter of an offence is seized by the police it ought not to be retained in the custody of the court or of the police for any time longer than what is absolutely necessary. The procedure for disposal of valuable articles is also laid down.

5. Sunderbhai Ambalal Desai (supra) was delivered in the context of provisions of Sections 451 and 457 of the Criminal Procedure Code. Therefore, it is for the petitioner to invoke the said provisions before the appropriate J.M.F.C. in case such occasion arises. Invoking our extraordinary jurisdiction or seeking a writ of mandamus that would have tendency to interfere with the investigation, will not be appropriate remedy.

6. For all the above reasons, we decline to entertain this petition. However, we clarify that it will be open to the petitioner to take out such proceedings as are available under the law for securing its interest. Nothing in this order is intended to prejudice the rights, if any of the petitioner or other parties, in this regard."

The division bench holds that the judgment in the case of SUNDERBHAI AMBALAL DESAI was delivered by the Apex Court in the context of provisions of Sections 451 and 457 of the Cr.P.C. Therefore, it was for the petitioner to invoke the said provisions before the JMFC Court.

11. In the light of the law laid down by the coordinate benches and the division bench of other High Court, the unmistakable inference is non-entertainment of petition qua the prayer that is sought. It is for the petitioner at every instance to knock at the doors of the concerned Court by filing applications for release of gold. In the event of such an application is filed, the concerned Court in consonance with the principles of natural justice, shall pass necessary orders in accordance with law. Except the aforesaid observation,



no other prayer of the petitioner would merit consideration."

24. In ***General Insurance Council v. State of Andhra Pradesh***, reported in ***(2010) 6 SCC 768***, the Apex Court reiterated that continued retention of valuable articles by the police serves no purpose and that interim custody should ordinarily be granted subject to appropriate conditions.

25. This Court has consistently followed the above principles and held that mere existence of rival claims or pendency of investigation is not, by itself, a ground to reject an application under Sections 451 or 457 Cr.P.C., particularly when the property is identifiable and traceable.

26. In the present case, it is not in dispute that the seized articles, including gold, silver, cash and other movable properties, were recovered pursuant to



investigation and are presently in the custody of the police.

27. The learned Magistrate, while rejecting the applications filed under Sections 451 and 457 of Cr.P.C., has observed that the power of the Court under the said provisions is limited and that, while exercising such power, the Magistrate cannot go into questions of title or decide serious rival claims which would require detailed analysis and appreciation of evidence. The learned Magistrate has further observed that, at this stage, neither the accused nor the de-facto complainant has produced bills or authentic documents to substantiate their respective claims over the seized articles and that, since there exists a serious dispute as to entitlement, such rival claims cannot be adjudicated under Sections 451 and 457 Cr.P.C. Consequently, both the applications came to be rejected, leaving the parties to approach the civil court.



28. At the outset, there can be no quarrel with the legal proposition that, while exercising jurisdiction under Sections 451 and 457 Cr.P.C., the Magistrate is not expected to conduct a roving enquiry into title or adjudicate complicated civil disputes. However, the error committed by the learned Magistrate lies in the manner in which the said principle has been applied to the facts of the present case.

29. The Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai (supra)***, has categorically held that the object of Sections 451 and 457 Cr.P.C. is to ensure that seized property is not allowed to remain idle in police custody for an unduly long period. The Apex Court has further held that, at the stage of granting interim custody, the Court is only required to form a prima facie opinion as to who would be the proper person to hold custody, subject to appropriate safeguards, and that a detailed enquiry into ownership is neither contemplated nor desirable.



30. In the present case, the learned Magistrate has noticed that there are rival claims and that neither party has, at this stage, produced conclusive documentary proof of ownership. However, the very existence of rival claims or absence of conclusive proof cannot, by itself, be a ground to reject an application for interim custody, particularly when the seized articles are identifiable and can be produced as and when required during trial.

31. The reasoning that "serious rival claims cannot be decided under Sections 451 and 457 Cr.P.C.", though legally sound, has been misapplied to deny interim custody altogether, which is contrary to the ratio laid down by the Hon'ble Supreme Court. The law does not mandate that interim custody must be refused whenever rival claims exist; rather, it mandates that such custody be granted subject to conditions, without deciding title.



32. It is also significant to note that the learned Magistrate has, in the very same proceedings, released other movable properties such as vehicles, passport and other articles in favour of the petitioner–accused by placing reliance on the judgment in ***Sunderbhai Ambalal Desai (SUPRA)***. Having done so, the refusal to release the remaining seized articles, on the very same legal principles, without any distinguishing reasons, renders the impugned order internally inconsistent.

33. The contention of the learned High Court Government Pleader that further investigation is pending under Section 173(8) Cr.P.C. cannot be accepted as an absolute bar to grant interim custody. The pendency of further investigation does not justify indefinite retention of valuables in police custody.

34. The approach adopted by the learned Magistrate, in effect, results in the seized articles remaining in police custody till conclusion of trial, which



is precisely what the Hon'ble Supreme Court has repeatedly deprecated. Such an approach defeats the very object of Sections 451 and 457 Cr.P.C. and results in avoidable hardship.

35. This approach, in the considered view of this Court, is contrary to the settled principles of law laid down by the Hon'ble Supreme Court. At the stage of granting interim custody, the court is not expected to conclusively determine ownership. What is required is a prima facie satisfaction as to who would be the proper person to hold custody, coupled with adequate safeguards to secure production of the property during trial.

36. Continued retention of valuable articles such as gold and silver in police custody serves no useful purpose and may, in fact, result in misuse or loss, which the law seeks to prevent.



37. Insofar as the petition filed by the de-facto complainant seeking interim custody of the very same seized articles is concerned, this Court finds no merit to interfere with the impugned order. As rightly noticed by the learned Magistrate, at this stage, the de-facto complainant has not produced any prima facie material such as bank statements, transaction records or documentary evidence to demonstrate loss of funds or to establish a direct nexus between the seized articles and the alleged offence. The claim of the de-facto complainant is founded predominantly on allegations which are yet to be tested during trial and further investigation under Section 173(8) of Cr.P.C. is admittedly pending. In the absence of prima facie material and in view of the serious dispute regarding entitlement, this Court is of the considered opinion that no case is made out to grant interim custody in favour of the de-facto complainant at this stage. On the other hand, admittedly the articles are seized from the custody of the accused. The learned magistrate has



released certain articles like vehicles etc,. In his favour, which order has not been challenged by the complainant.

38. Having regard to the totality of circumstances, prima facie this court is satisfied that accused would be entitled to the custody of the articles seized in this case and also that the rejection of the application filed by the petitioner/accused suffers from non-application of mind and erroneous exercise of jurisdiction, warranting interference under Section 482 Cr.P.C.

39. Therefore, this Court is of the considered opinion that the impugned order, insofar as it relates to the petitioner/accused in Crl.P. No.9844/2025, suffers from erroneous exercise of jurisdiction and non-application of the settled principles of law, warranting interference by this Court.



40. Accordingly, Criminal Petition No.9356/2025 filed by the de-facto complainant stands ***dismissed***, reserving liberty to the said party to seek appropriate relief before the competent Court at a later stage, in accordance with law.

44. Consequently, **Crl.P. No.9844/2025 is allowed.** The impugned order dated 19.04.2025 passed by the learned XLV Additional Chief Judicial Magistrate, insofar as it relates to rejection of the application filed by the petitioner/accused under Sections 451 and 457 of the Code of Criminal Procedure, stands set aside.

45. The respondent-Police are hereby directed to release the seized articles covered under P.F. Nos.43/2023, 45/2023 and 46/2023,(as per prayer) in favour of the petitioner/accused, subject to the following conditions:



- i. *The Investigating Officer shall, prior to release, obtain a valuation report from a Government-approved/registered valuer in respect of the seized gold and silver articles and place the same on record before the learned Magistrate.*
- ii. *The petitioner shall execute an indemnity bond for the total assessed value of the seized articles, including cash, with one solvent surety for the like sum, to the satisfaction of the learned Magistrate.*
- iii. *A detailed inventory/panchanama shall be drawn, photographs and videographs of each article shall be taken from multiple angles, particulars such as weight, quantity, identification marks and denomination (in case of cash) shall be clearly recorded. The same shall be countersigned by the petitioner and preserved as part of the record, in lieu of physical production during trial, as contemplated in **Sunderbhai Ambalal Desai** (SUPRA).*



- iv. The petitioner shall not alienate, transfer, pledge, mortgage or otherwise encumber the seized articles or cash amount till conclusion of the trial, except with prior permission of the Trial Court.*
- v. The petitioner shall produce the seized articles before the Trial Court or Investigating Officer as and when directed, for purposes of identification, evidence or further investigation.*
- vi. The petitioner shall file a written undertaking before the Trial Court agreeing to abide by all the conditions imposed herein and acknowledging that breach of any condition would entail cancellation of interim custody.*
- vii. The release of the seized articles is purely interim in nature and shall not amount to adjudication of title, ownership or entitlement, which shall be decided independently during trial or in appropriate proceedings.*



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viii. Observations made herein are only for the purpose of disposal of the petitions and shall not influence the trial or further investigation of the case in any manner.

SD/-
(MOHAMMAD NAWAZ)
JUDGE

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