

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 31ST DAY OF DECEMBER, 2024****BEFORE****THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ****WRIT PETITION NO. 36201 OF 2024 (GM-POLICE)****BETWEEN:**

MUTHOOT FINANCE LIMITED
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT 1956
HEAD OFFICE AT: MUTHOOT CHAMBERS
OPP: SARITHA THATRE COMPLEX
BANERJEE ROAD, KOCHI-682018
HAVING ONE OF ITS BRANCH AT NO.91/2
RENUKA YELLAMAMA BUILDING
ABOVE ICICI BANK, 1ST FLOOR
BAGUR MAIN ROAD
HONGASANDRA, BANGALORE-560063
REP. BY ITS AUTHORIZED OFFICER
SRI.AJUMON P.GEORGE

...PETITIONER

(BY SRI. ANISH JOSE ANTONY., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY
HOME DEPARTMENT
VIDHANA SOUDHA
BENGALURU-560 001
2. THE STATION HOUSE OFFICER/
POLICE SUB-INSPECTOR
BEGUR POLICE STATION
BENGALURU
KARNATAKA-560 079

...RESPONDENTS

(BY SRI.MOHAMMED JAFFAR SHAH., AGA)





THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE INTERFERENCE BY THE RESPONDENTS IN PETITIONERS BUSINESS FOR FORCEFULLY SEIZING THE GOLD ARTICLES PLEDGED BY IT COSTUMERS IS ARBITRARY AND IS IN VIOLATION OF FUNDAMENTAL RIGHTS GUARANTEED UNDER ARTICLE 14 AND 19(1)(G) OF THE CONSTITUTION OF INDIA IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

- a) *Declare that the interference by the Respondents in petitioners business for forcefully seizing the gold articles pledged by it costumers is arbitrary and is in violation of fundamental rights guaranteed under articles 14 and 19(1)(g) of the constitution of India in the interest of justice and equity.*
- b) *Issue a writ of mandamus or any other appropriate writ, order or direction to be issued to the Respondents to not seize the gold articles from the petitioner but can only examine the same by summoning it for the purpose of investigation in Crime No. 414/2024 registered by th R2, in the interest of justice and equity.*
- c) *Issue a writ of certiorari for call for the records of the Annexure-C notices issued by the R2 to the petitioner dated 30.12.2024 and quash the same and all consequential actions taken against the petitioner thereafter, interest of justice and equity.*
- d) *And grant such other relief or directions as this Hon'ble Court deems fit the facts and circumstances of the case.*



2. Learned AGA is directed to accept notice for respondents No.1 and 2.
3. The order being challenged is a notice issued by respondent No.2 – Station House Officer to make available certain gold articles said to be in the custody of the Petitioner which are claimed to have been stolen and pledged with the petitioner.
4. Sri.Anish Jose Antony, learned counsel for the petitioner would submit that the petitioner would co-operate with the investigation but would have to retain the gold which had been pledged with the petitioner since the petitioner has a right over the same being a Pledgee/pawnee.
5. He submits that there is a right vested with the petitioner on account of the pledge of the said gold as a security and that security cannot be taken away on the ground that the gold is stolen, the ownership of the gold would have to be established by the person claiming it by way of an appropriately instituted civil suit.



6. Having considered the above submission and having perused the papers, I'm of the considered opinion that the petitioner being only a pledgee/ pawnee would have a only right that the pledgers/pawner has in the said gold and the petitioner cannot claim any right more than that.
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., 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.***

10. Registrar (Judicial) is directed to forward a copy of this order to the Chairman, Karnataka Law Commission.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

SR
List No.: 3 Sl No.: 26