

GAHC010268032022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/3802/2022

MANISH DAS GUPTA
S/O- LATE TARIT DAS GUPTA,
R/O- HOUSE NO-1, BARSHAPARA, RGBS ROAD, BYE LANE NO-4,
KAMRUP(M), GUWAHATI-18, ASSAM

VERSUS

THE UNION OF INDIA
REP. BY THE DEPUTY COMMISSIONER , DIRECTORATE OF REVENUE
INTELLIGENCE , GUWAHATI ZONAL UNIT

Advocate for the Petitioner : MR. K P PATHAK

Advocate for the Respondent : SC, CUSTOMS

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 04.05.2023

Heard Mr. KP Pathak, learned counsel for the petitioner as well as Mr. SC Keyal, learned Standing Counsel, DRI.

This is an application seeking pre-arrest bail under Section under Section 438 of the Code of Criminal Procedure, 1973 by the petitioner, namely, **Manish Das Gupta** apprehending arrest

in connection with Case No.14/CL/IMP/CIG/DRI/GZU/2022-23 dated 26.09.2022.

A bail objection petition is filed by the respondent/ customs department and an additional affidavit filed by petitioner.

It may be mentioned that by order, dated 22.12.2022, the petitioner was granted interim pre-arrest bail in the instant case.

Mr. KP Pathak , learned counsel for the petitioner submits that the petitioner herein is a businessman who owns and operates godown in the name and style of M/s. KLS Logistics situated at Jyotikuchi, Lokhra Road, Guwahati. The petitioner received summons under Section 108 of the Customs Act, 1962, dated 15.12.2022, issued by the Senior Intelligence Officer, Directorate of Revenue Intelligence, Guwahati in connection with the above noted case whereby the petitioner was directed to appear before the Senior Intelligence Officer on 16.12.2022. Upon receipt of the said summons, the petitioner instructed his counsel to look into the matter and make certain enquiry and could come to learn that said case has been registered by the respondent authorities based on the seizure of alleged foreign origin cigarettes from a truck bearing registration No.NL-01-AD-2693 having a total seizure value of Rs.2, 75,00,000/-. It is also mentioned that one Papu Mondal, who was the owner of the vehicle was arrested on 26.09.2022. It has been further mentioned that on the basis of the implicating statement made by Papu Mondal, summons was issued to one Simon Peter Kar. When the said Simon Peter Kar had appeared before the authorities, he was arrested, and as such, the petitioner has reasonable apprehension that he may also be arrested and it is under such circumstances, the instant application has been filed seeking pre-arrest bail.

Opposing the pre-arrest bail application, Mr. SC Keyal, learned Standing Counsel, Customs Department, submits that although in terms of the conditions of interim pre-arrest bail, the petitioner appeared before the investigating officer, except giving his statement, he is not co-operating with him by providing the required information such as bank account statement and its number. On the other hand, Mr. Keyal submits that the investigation reveals that he was involved in another previous case involving smuggling of 8,35,200 sticks of foreign origin cigarettes valued at Rs.1.72 crore and thus, he is a habitual offender and his co-accused persons are already arrested. Therefore, Mr. Keyal submits that his pre-arrest bail application

may be dismissed.

A perusal of the record including the pre-arrest bail objection petition, it is revealed that in terms of the interim pre-arrest bail order, the petitioner has appeared before the investigating officer.

It is averred in the additional affidavit filed by the petitioner that he has furnished all the required information to the investigating officer and as such, his custodial interrogation is not required.

The prosecution/ customs department stated that the petitioner was involved in another case as referred in the objection petition, but the said previous case number is not mentioned and no verifiable copy of it is enclosed nor copy of his statement is produced.

Therefore, this Court is of the opinion that although there is *prima facie* case against the petitioner, in the above backdrop of facts and circumstances, his custodial interrogation is not required in the interest of the ongoing investigation.

Accordingly, the interim pre-arrest bail granted to the petitioner vide order, dated 22.12.2022 is hereby made absolute, subject to the following conditions-

- (i) That the petitioner shall co-operate in investigation as and when required;
- (ii) That the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) That the petitioner shall refrain from committing any such offence in future of which he is suspected of commission.

This disposes of the anticipatory bail application.

JUDGE

Comparing Assistant