



Crl.O.P.No.13160 of 2023

Orders Reserved on
19.09.2023

Orders Pronounced on
25.09.2023

Crl.O.P.No.13160 of 2023

RMT. TEEKAA RAMAN.,J.

The petitioners/accused apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 135 of the Customs Act, seeks anticipatory bail.

2. The case of prosecution is that the petitioner is engaged in the business of the real estate for the past eight years and presently residing at No.5/30, VOC Street, Mondiyamman Nagar, Padiyanallur, Thiruvallur, Tamil Nadu, that the officials of the respondent have visited the official premises of the petitioner two weeks ago enquiring about the petitioner and his business dealings from his staff as he was not available at that point of time; that on 01.06.2023, the officials of the respondent have once again visited the premises of the petitioner and without any warrant, have taken away the original passport and driving licence of the petitioner without drawing any mahazar.



Crl.O.P.No.13160 of 2023

WEB COPY

3. The learned counsel for the petitioner would submit that the petitioner is innocent and that one Basheer Ahemed came and asked for some amount so as to enable him to go and return from Dubai; hence he gave the amount to him and except that he is no way connected to the offence.

4. The learned Special Public Prosecutor for DRI cases filed counter. Based upon the counter, he submitted as under -

(i) one Basheer Ahemed s/o Hyder Ali arrived from Colombo to Chennai in flight on 08.05.2023 smuggling foreign origin gold into India through Chennai International Airport without declaring the same to the customs and without payment of duty; that when the smuggled gold was being carried in person and proceeding towards his residence, the officers intercepted him near his residence in Chennai. Personal search of Basheer Ahemed led to recovery of 14666 grams of gold in paste form concealed in various knee caps worn by him and specially made pouches in his pant and fake passport containing fake visas of USA, UK & Canada apart from his original passport.



CrI.O.P.No.13160 of 2023

WEB COPY

(ii) After extraction of said gold in paste form, pure gold of 13.28 kgs. totally valuing at Rs.8.28 crores was seized under mahazar dated 08/09.0.2023. The residence of Basheer Ahmed was searched on 08.05.2023 and incriminating documents/evidences such as 69 knee caps, 344 fake boarding passes were recovered and seized.

(iii) Basheer Ahemed, in his voluntary statement recorded on 09.05.2023, admitted that he is a frequent traveler and indulged in gold smuggling at about 18 times while he was travelling from Dubai to Chennai via Colombo; that he partnered with Bakker Hussain and T.Senthil Kumar with his share of 20% of the total investment in purchasing the said Gold from Dubai; that Bakker Hussain and Senthil Kumar invested with a share of 20% and 60% respectively.

(iv) Since seized goods was worth Rs.8.28 crores and Basheer Ahemed committed offence punishable u/s 132 & 135 of the Customs Act, he was arrested under Section 104 of the Customs Act and remanded to Judicial Custody on 10.05.2023 under R.R.No.15/2023.

(v) Based on the voluntary statement tendered by Basheer Ahemed on 09.05.2023, Mohamed Sheik Illiyas was intercepted and his residence was searched under mahazar proceedings dated 19.05.2023 which led to



Crl.O.P.No.13160 of 2023

detention of incriminating documents such as blank visa papers, fake visas, fake passport pages, dye, thread, etc. and the said Mohamed Sheik Illiyas was handed over to the Asstt. Commissioner of Police, Fake Passport Wing, Central Crime Branch-1, Greater Chennai Police, Vepery, Chennai - 7 alongwith said fake documents; that the Central Crime Branch has further investigated the fake passport case and arrested two more accused involved alongwith Sheik Illiyas.

(vi) On 01.06.2023, the premises at Old No.216, New No.236, Thambu Chetty Street, Chennai which was rented by T.Senthil Kumar was searched in the presence of proper officer and independent witnesses and in the presence of the owner of the said premises and T.Suresh Kumar, younger brother of Senthil Kumar, vide mahazar proceedings dated 01.06.2023. The search of the said premises resulted in detention of 419 cartons of foreign origin cigarettes, 19 nos. of liquor bottles appears to have been smuggled into India without payment of Customs Duty and certain incriminating documents also which evidenes that T.Senthil Kumar is not only involved in smuggling of gold but also appears to smuggle foreign origin cigarettes and liquor bottles into India without payment of customs duty.



Crl.O.P.No.13160 of 2023

WEB COPY

(vii) From the travel history of T.Senthil Kumar, Bakker Hussain and Basheer Ahemed, it is seen that they had travelled together from Colombo to Chennai on various instances; that from the call data records, it was found that Basheer Ahemed made / received calls to /from Bakker Hussain upon his arrival at Chennai Airport with the smuggled gold; that from the statement dated 09.05.2023 of Basheer Ahemed, Senthil Kumar is a major investor for procurement of gold and such payments were made through hawala channels by Senthil Kumar ; that the said Senthil Kumar in collusion with Basheer Ahemed and Bakker Hussain, jointly and severally smuggled the foreign origin on various occasions with the help of fabricated travel documents such as fake passport, fake boarding passes; that Senthil Kumar who appears to have major share of investment in procuring the said gold and mastermind of the said act of smuggling is absconding after the arrest of Basheer Ahemed on 10.05.2023.

(viii) The investigation in the case to locate and the network of the persons involved in the case is in progress. The instant case of creation of fake passport, fake visas and fake boarding passes appears to have national



Crl.O.P.No.13160 of 2023

security implications and angle of involvement of Senthil Kumar is yet to be probed.

(ix) The instant case of gold smuggling in huge quantity involves transfer of money through hawala transactions, the angle of violations of Foreign Exchange Management Act alongwith the Customs Act and involvement of T.Senthil Kumar as stated by Basheer Ahemed in his voluntary statement on 09.05.2023 is also yet to be probed.

5. After perusing the accounts, documents filed and the 161 statement given by Basheer Ahemed which was recorded under Section 108 of the Customs Act, Basheer Ahemed said to have travelled to Dubai and indulged in gold smuggling around 18 times and as per his voluntary statement, this petitioner Senthil Kumar owns 60% while the second accused holds 20% and the first accused holds another 20%. In the instant case, seized gold is worth about Rs.8.28 crores and the petitioner alleged to have committed offences punishable under sections 132 & 135 of the Customs Act. It is also seen that based on the voluntary statement of the said Basheer Ahemed led to search of his residence and detention of



Crl.O.P.No.13160 of 2023

WEB COPY

incriminating documents such as fake visas, fake passports, dye, thread, etc. has been seized and also the search was conducted in the house of the petitioner Senthil Kumar; that they have detained 419 cartons of foreign origin cigarettes and 19 Nos. of liquor bottles which is said to have been smuggled into India without payment of customs duty and other incriminating documents have been seized. The travel history of the petitioner and other accused have been recovered and hence I find that investigation to locate and unearth all the persons involved in this case has to be ascertained since gold smuggling in huge quantity was involved and transfer of money was through hawala channels.

6. Taking into consideration the seriousness, nature and gravity of the offence, modus operandi adopted by all the accused in this case and transferring the money through hawala channel and the seizure which has led to so may criminal cases in violations of Customs and FEMA, I am not inclined to grant anticipatory bail to the petitioner for the present, with a liberty to file fresh application after passage of time or change in circumstances.



Crl.O.P.No.13160 of 2023

WEB COPY

7. Accordingly, this Criminal Original Petition is dismissed.

25.09.2023

rgr



WEB COPY



Crl.O.P.No.13160 of 2023

RMT. TEEKAA RAMAN.,J.

rgt

order in
Crl.O.P.No.13160 of 2023

25.09.2023