Court No. - 16

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 861 of 2023

Applicant :- Anil Soni
Opposite Party :- Union Of India Thru. Directorate Of Revenue Intelligence (Dri)
Counsel for Applicant :- Amol Kumar Srivastava,Shivanshu Mishra,Vikas Yadav
Counsel for Opposite Party :- Digvijay Nath Dubey

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Vikas Yadav, the learned counsel for the applicant, Sri Digvijay Nath Dubey, the learned counsel for the respondent-DRI.

2. This Criminal Misc. Anticipatory Bail Application under Section 438 Cr.P.C. has been moved by the applicant after rejection of his anticipatory bail application by the order dated 18.03.2023 passed by learned Additional District and Sessions Judge, Court No. 11, Special Judge NDPS Act, Lucknow in Anticipatory Bail Application No. 2109 of 2023, seeking Anticipatory Bail in DRI Case No. 02 of 2023, under Section 135 of the Customs Act, 1962, Police Station DRI, District Lucknow.

3. The aforesaid case has been registered after the officials of DRI apprehended one Sumit Verma while he was travelling in a train and 3000 gms. gold was recovered from him.

4. In the affidavit filed in support of the bail application, it has been stated that the aforesaid co-accused Sumit Verma is an employee of the applicant's firm M/s R.A. Mosun Jewelers and, therefore, the applicant has been implicated in the present case. Another partner of the firm Ritesh Soni has also been made accused in the case and he has filed Crl. Misc. Anticipatory Bail Application U/S 438 Cr.P.C. No. 1679 of 2023, wherein he has been granted interim anticipatory bail by means of an order dated 31.07.2023.

5. The respondent-Directorate of Revenue Intelligence has filed a counter affidavit opposing the anticipatory bail application and in para 15 thereof, it has been stated that in his voluntary statement dated 28.01.2023 recorded under Section 108 of the Customs Act, accused Sumit Verma had admitted that he does

not have any bill/invoice of foreign origin gold. However, the applicant has annexed invoice issued by his own firm "R A Mosun Jwelers, Jaipur' on 24.01.2023 and 26.01.2023 regarding the gold in question.

6. This indicates that the applicant has wrongly prepared the invoice for taking advantage in the present case.

7. The applicant has filed a rejoinder affidavit, wherein this fact has not been disputed that the invoice has been issued from another firm belonging to him and this document has been issued on 31.01.2023, i.e., subsequent to recording of statement of the applicant under Section 108 of the Customs Act.

8. Having considered the aforesaid facts and circumstances of the case, I am of the view that the applicant does not deserve to be granted discretion of this court by granting pre-arrest bail to him.

9. The anticipatory bail application is ***rejected*** accordingly.

Order Date :- 6.11.2023
Pradeep/-

Digitally signed by :-
PRADEEP SINGH
High Court of Judicature at Allahabad,
Lucknow Bench