

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13994 of 2023

Applicant :- Pankaj

Opposite Party :- Union Of India Thru. Prin. The Directorate Of Revenue Intelligence Lko.

Counsel for Applicant :- Amrendra Nath Tripathi

Counsel for Opposite Party :- Digvijay Nath Dubey

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Amrendra Nath Tripathi, learned counsel for the applicant, Sri Digvijay Nath Dubey, learned counsel appearing for D.R.I. and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in DRI Case No.16 of 2023, under Section 135 of the Customs Act, 1962, registered at Police Station DRI Zonal Unit, Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on the basis of recovery of gold made by the applicant and another accused persons on 4/5.10.2023 on the basis of information received from a mukhbir.
4. Recovery memo mentions that a car was intercepted in which the applicant and co-accused persons were traveling and 13 bars of gold hidden in the belt tied on the applicant's waist has been recovered. 12 bars of gold similarly hidden in the belt tied on the waist of other accused person, were also recovered. Recovery memo states that in their custodial statements the accused persons confessed that they were carrying smuggled gold from Gauhati.
5. In the affidavit filed in support of bail application, it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history.
6. Learned counsel for the applicant has submitted that besides confessional statement of the accused persons that the gold was smuggled, there was no other material even to *prima facie* establish

that the gold was smuggled and the gold bars did not bear any marking to show that it was smuggled. The gold has already been seized at the time of its recovery.

7. Sri Digvijay Nath Dubey, learned counsel appearing for D.R.I. has opposed the prayer for bail and has submitted that offence alleged is of smuggling a huge quantity of gold, which is detrimental to the economy of the nation, therefore, the applicant is not entitled to be released on bail.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that besides custodial confessional statement there is no other material to *prima facie* indicate that the gold recovered and seized was smuggled; that the offence alleged carries a maximum imprisonment of punishment up to 7 years; that the applicant has no previous criminal history and he is languishing in jail since 06.10.2023 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

9. Accordingly, this bail application stands **allowed**.

10. Let the **applicant-Pankaj** be released on bail in aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

Order Date :- 5.12.2023
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