

GAHC010030022024



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

Case No. : Bail Appln./414/2024

VINOD KUMAR MANOHARLAL JAIN AND 2 ORS.
S/O MANOHARLAL GOPILAL JAIN
R/O 3501D, SATYAM IMPERIAL HEIGHTS, PLOT NO. 11, SECTOR 11,
NR GHANSOLI DEPOT,
GHANSOLI, NAVI MUMBAI, DIST. THANE, MAHARASHTRA -400701.

2: SRI VADAN SINGH
S/O HIR SINGH
R/O SATLEVA RAJASMAND
RAJASTHAN-313301

3: JAGJISH MADHAVAN PILLAI
S/O MADHAVAN JANARDHAN PILLAI
R/O ROOM NO. 1847/001
3RD FLOOR
SHIV COLONY
DESHMUKHWADI SECTOR-1

AIROLI
NAVI MUMBAI
P.O. AIROLI
DIST. THANE
MAHARASHTRA- 40070

VERSUS

THE UNION OF INDIA
REP. BY THE SC, CUSTOMS DEPARTMENT.

Advocate for the Petitioner : M K BORAH

Advocate for the Respondent : SC, CUSTOMS

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

O R D E R

20.02.2024.

Heard Mr. M.K. Borah, learned counsel for the accused and Ms. M. Deka, learned counsel appearing on behalf of Mr. S.C. Keyal, learned Standing Counsel for Customs Department.

2. This application, under Section 439 of the Code of Criminal Procedure, is preferred by three accused, namely, **Vinod Kumar Manoharlal Jain, Vadan Singh** and **Jagdish Madhavan Pillai**, who have been languishing in jail hazoot since 30.01.2024, in connection with **Customs Seizure Case No. 12/CL/IMP/AS/GAU/2023-24** registered under sections **110/104** and **135** of the Customs Act for granting bail.

3. The aforementioned case has been registered on the basis of a complaint lodged by Inspector Nitin Grewal, Anti-Smuggling Unit, Customs Division, Guwahati on 31.01.2024.

4. The essence of allegations made in the complaint dated 31.01.2024, is that on 29.01.2024, acting on a tip off, the complainant had apprehended three persons, namely, Vinod Kumar Manoharlal Jain, Vadan Singh and Jagdish Madhavan Pillai, while they were travelling in one Auto Rikshaw at Darranga Boarder near BIT Check Post and recovered from their possession 2060 grams of gold of foreign origin of worth Rs.1,32,45,800/- and Foreign Currency of Rs.2,27,520/- and Indian Currency of Rs.1,12,600/- and seized the same in presence of witnesses by preparing seizure list.

5. Mr. Borah, learned counsel for the accused submits that the accused were arrested on 30.01.2024 and since then they have been languishing in jail hazoot for last 20 days. Mr. Borah, referring to a Circular No. 13/2022-Customs, dated 16.08.2022 further submits that as per clause 2 (C) of the said Circular, arrest could be effected where the market value of the offending goods is Rs.2,00,00,000/-, but in the present case the value of the good is below Rs.2,00,00,000/-. Mr. Borah, also submits that the punishment prescribed for the alleged offence is up to three years and if the value of the good is above rupees one crore, then the punishment may be extended to seven years only. It is the further submission of Mr. Borah that the marriage of the son of accused Vadan Singh will be solemnized on 21.02.2024 and that presence of the accused in the said marriage is very much essential and that the accused are ready to co-operate with the investigating agency, and therefore, it is contended to allow this petition.

6. On the other hand, Ms. Deka, the learned counsel appearing for Mr. S.C. Keyal, learned Standing Counsel for Customs Department has produced the case file before this court and submits that the I.O. has collected sufficient incriminating materials against the accused and that investigation is going on and therefore, it is contended to dismiss the petition.

7. Having heard the submissions of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the Case File produced before the court.

8. The Case File produced before the court indicates that the investigating agency has collected sufficient materials in support of the allegation made in the complaint. Further, it appears that investigating agency has achieved significant progress in the investigation and material part of investigation is almost over.

9. Further, it appears from the Annexure 8, enclosed with the petition at page No. 43, that marriage of the son of accused Vadan Singh will be solemnized on 21.02.2024, and it is the contention of the learned counsel for the accused that presence of the accused Vadan Singh is very much necessary in the said marriage.

10. It also appears that the accused are languishing in jail hazoot since 31.01.2024. And balancing the period of detention with the nature and gravity of the offence and the punishment prescribed for the same, and also considering the submissions of learned Advocates of both sides this court is inclined to allow this petition.

11. Accordingly, it is provided that on furnishing a bond of Rs.50,000/- (Rupees fifty thousand) only, each, with one surety of like amount to the satisfaction of the learned **Chief Judicial Magistrate, Kamrup (M) Guwahati**, accused **Vinod Kumar Manoharlal Jain, Vadan Singh** and **Jagdish Madhavan Pillai**, who have been languishing in jail hazoot since 30.01.2024, in connection with **Customs Seizure Case No. 12/CL/IMP/AS/GAU/2023-24** shall be enlarged on bail.

12. In terms of above, this bail application stands disposed of. The Case File be returned.

JUDGE

Comparing Assistant