

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.615 OF 2015

Imran S. Chamundi	.. Applicant. (Orig. Accused)
V/s.	
Air Intelligence Unit Officer Customs (AIU) & Another	.. Respondents.

Mr. Sagar Kasar, for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent-State.
Mr. R. K. Pathak, Spl. P. P. for the Customs Department, present.

CORAM: REVATI MOHITE DERE,J

DATE : 1st APRIL, 2015.

P.C:-

Heard the learned Counsel for the Applicant and the learned Special Public Prosecutor, for the Customs Department.

2 The Applicant seeks his enlargement on bail in connection with CR No.276/RA/2014 registered with the Sahar Airport (Chhatrapati Shivaji International Airport) Police Station, Mumbai, for the alleged offences punishable under Sections 135 (1) a, 135 (1)b and 135 (1)(i) of the Customs Act, 1962.

3 According to the Complainant i.e. the Air Intelligence Unit Officer, two lady passengers, namely Ms. Shabana and Ms. Shahin came to be intercepted on 23rd September, 2014, at the arrival hall of the

Chhatrapati Shivaji International Airport at Mumbai. According to the Complainant, on conducting a personal search of the said two lady passengers, 19 gold bars weighing 250 gms each, (total 4750 gms), valued at Rs.2,34,65,100/- was recovered from them. The said gold bars were seized under a panchanama by the Customs Department and the statements of the two lady passengers came to be recorded under Section 108 of the Customs Act, 1962.

4 It appears that during the interrogation of the said two lady passengers, the name of the present Applicant was disclosed. According to the two lady passengers, the said gold bars which were seized did not belong to them, but were handed over to them by the Applicant, who met them at Hyderabad and asked them to handover the said gold bars, to a person outside the Mumbai Airport. For the purpose of carrying the said gold bars, both were paid a consideration of Rs.10,000/- each.

5 The two lady passengers who were arrested, came to be enlarged on bail by the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai on 14th October, 2014.

6 The present Applicant was arrested on 13th February, 2015 and his statement came to be recorded under Section 108 of the Customs Act, 1962. The Applicant preferred two bail applications before the learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai, which came to be rejected as the investigation was in progress. The learned Counsel for the Applicant submitted that the Applicant thereafter on 11th March, 2015, also approached the Session Court, seeking his enlargement on bail, however, the said application was also rejected. The learned Counsel for the Applicant submits that the Customs

Department has issued a Show Cause Notice dated 13th March, 2015 to the Applicant under Section 124 of the Customs Act, 1962. He has relied upon the said show cause notice and, in particular, paragraph 21 thereof, which states the documents and the statements of witnesses that the Customs Authority intends to rely upon. He, therefore, submits that the said paragraph 21 shows that the investigation is complete.

7 The learned Spl. Public Prosecutor does not dispute the fact, that a show cause notice has been issued to the Applicant under Section 124 of the Customs Act. He submits that filing of the charge sheet is likely to take sometime.

8 Considering the peculiar facts of the case; that the Applicant has been in custody since 13th February, 2015, his statement has been recorded under Section 108 of the Customs Act, 1962; that show cause notice has also been issued to him under Section 124 of the Customs Act; that the two lady passengers have also been enlarged on bail and that the filing of the charge sheet is likely to take sometime, the Applicant is entitled to be enlarged on bail on the following terms and conditions:-

ORDER

- (i) The Applicant be released on bail on furnishing PR. Bond in the sum of Rs.1,50,000/- with one or two local sureties in the like amount;
- (ii) The Applicant shall attend the Customs Department as and when called for;
- (iii) The Applicant shall be initially released on cash bail for a period of

six weeks;

- (iv) The Applicant shall surrender his passport to the Customs Department;
- (v) The Applicant shall not leave India, without the prior permission of the Trial Court;
- (vi) The applicant shall furnish his address as well as his contact number, both to the concerned police station as well as to the Court seized with the case and if there is any change in the address or the contact number, the same shall also be immediately communicated to the concerned Police Station as well as the Court seized with the case; and
- (vii) If there is breach of any of the aforesaid conditions, the prosecution will be at liberty to seek cancellation of the applicant's bail.

9 The application is allowed in the aforesaid terms and accordingly stands disposed of.

10 The learned Judge to conduct the case on its own merits, uninfluenced by the observations made in the present order, which are prima facie in nature.

11 Parties to act on an authenticated copy of this order.

(REVATI MOHITE DERE,J.)