

Crl.O.P.Nos.16565 of 2015**R.SUBBIAH, J.**

Apprehending arrest at the hands of the respondent, in respect of the alleged commission of offences punishable under Sections 468, 471 of IPC and Section 132 of Customs Act, in connection with the case in No.DRI/CZU/VIII.48/ENQ-1/INT-05/2015 pending on the file of the respondent, the petitioner has approached this Court seeking the relief of anticipatory bail under Section 438 of the Code of Criminal Procedure.

2.The case of the prosecution, in brief, is as follows:-

2(1)M/s.Sherisha Technologies, a group company of M/s.Refex Industries Ltd, is dealing in the trading of refrigerants and M/s.Refex Industries is doing the refilling on behalf of M/s.Sherisha Technologies. The petitioner herein is working as Assistant General Manager (Marketing) in M/s.Refex Industries Ltd. In the course of their business, in the month of August-2014, the said Company had placed orders with their Chinese supplier viz. M/s.Zhejiang AMP Orient Import and Export Co. Ltd., for the supply of R407C and R410A refrigerant gases vide., 13 purchase orders.

2(2)While so, the respondent viz., Directorate of Revenue Intelligence gathered specific intelligence that M/s.Sherisha Technologies,

one of the group companies owned by one Shri.Anil Jain, have illegally imported 80000 kgs of R-22 Refrigerant gas (HCFC), in four tanker containers Nos.ZFLU 2009060, ZFLU 2009096, ZPLU 2011302 and ZPLU 2011278 in the name of M/s.Sherisha Technologies Pvt. Ltd., No.1/171, Old Mahabalipuram Road, Thiruporur, Chennai, and they are trying to clear them vide four Bills of Entry Nos.8088486/23.01.2015, 8082686/23.01.2015, 8083074/23.01.2015 and 8082580/23.01.2015 declaring them to be containing Refrigerant Gas R410R Class 2.2 UN No.3163. But, R-22 refrigerant gas has been restricted for import into India vide ITC (HS), 2012-Schedule-I Import Policy, as the item is listed as Ozone depleting substance and Import of products, equipments containing Ozone Depleting Substances (ODS) will be subject to Rule 10 of the Ozone Depleting Substances Rules, 2000. The Ministry of Environment and Forests, Government of India, in exercise of powers under Sections 6, 8 and 25 of the Environment (Protection) Act, 1986 issued under Notification dated 17.07.2000 and enacted Ozone Depleting Substances (Regulation) Rules 2000. Rule 10 of the said Rules provides that no person shall import or cause to import such ozone depleting substance unless he obtains license issued by the authority. It may be noted that R-22 gas is a powerful green house gas with a global warming potential 1810, indicating that it is 1810 times as powerful as carbon-di-oxide and poses a great threat to environment.

2(3)The details gathered by the respondent indicated that Shri Anil Kumar Jain and his associates are reported to be illegally importing R-22 Refrigerant gas in tanker containers from China in the guise of R 410A in the name of M/s.Sherisha Technologies Pvt Ltd and selling the same to buyers all over India in the name of M/s.Refex Industries for quite a long time. Their attempt to clear the four tanker containers from customs was stalled on 27.01.2015 and they were examined with proper test kits on 29.01.2015 and 30.01.2015 and found to have contained the restricted R-22 (HCFC) gases weighing 20000 kgs each, having market value of over Rs.2.5 crores and they were seized under the provisions of Customs Act, 1962 under *Mahazar proceedings*, pending further investigations. The goods were also subjected to further tests again and confirmed to be R-22 refrigerant gas by Senior Scientific Officers of Indian Institute of Technology, Chennai. Investigations revealed that M/s.Refex Industries and other group companies including M/s.Sherisha Technologies owned by Shri Anil Jain have been indulging in smuggling of R-22 gas from China in the guise of import of R 410A without adhering to the licensing procedures in contravention of specially enacted statute. Hence, the case has been registered against the accused persons.

3.The learned counsel for the petitioner submitted that so far as the

petitioner herein is concerned, he is only an employee and he is working as Assistant General Manager - Marketing in M/s.Refex Industries Ltd and he has been falsely implicated in this case. The learned counsel for the petitioner would further submit that the petitioner is a chronic atherosclerosis patient and he is not in a position to stand elongated interrogation without intermittent medication and because of the same, he had resigned from the said Company during February, 2015 itself and he is undergoing treatment. It is further submitted by the learned counsel for the petitioner that one the Directors of the said Company was granted anticipatory bail by this Court in Crl.O.P.No.2653 of 2015 on 18.02.2015. Thus, the learned counsel for the petitioner sought for grant of anticipatory bail to the petitioner also.

4.The learned Special Public Prosecutor (for customs) opposed the grant of anticipatory bail to the petitioner stating that if anticipatory bail is granted to the petitioner, he will not co-operate for the enquiry.

5.Keeping the submissions made on either, I have carefully gone through the entire materials available on record and I find that this Court has already granted anticipatory bail to one of the Directors of the Company vide order dated 18.02.2015 in Crl.O.P.No.2653 of 2015. So far the

petitioner herein is concerned, he is only an employee of the company. Further, the petitioner is an aged man and he is also suffering from various ailments. Considering the facts and circumstance of the case, I am of the opinion that anticipatory bail could be granted to the petitioner by imposing stringent conditions.

6. Accordingly, the petitioner is ordered to be released on bail, in the event of his arrest or on his appearance before the concerned Court, on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Additional Chief Metropolitan Magistrate, (EO-I), Egmore, Chennai, and on further condition that he shall report before the respondent-police daily at 10.30 a.m. until further orders.

7. The petitioner shall appear before the concerned Court within a period of 15 days from the date of receipt of a copy of this order, failing which, the anticipatory bail granted shall stand automatically cancelled.

15.07.2015

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R.SUBBIAH, J.

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