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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

ANTICIPATORY BAIL APPLICATION NO.1407 OF 2017

Hiten Haria ...Applicant
Versus
Directorate of Revenue Intelligence and Anr. ...Respondents

Mr.Sujay Kantawalla i/b Mr.Yogesh M. Rohira, for the Applicant.

Ms.Rebecca Gonsalvez, for the Respondent No.1.

Mr.M.G.Patil, A.P.P for the Respondent No.2-State

CORAM : REVATI MOHITE DERE, J.

DATE : 9th AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with File No.DRI/MZU/D/INT/87/2017 registered with the Directorate of Revenue Intelligence, for the alleged offences punishable under the Customs Act.

3. Learned Counsel for the Respondent No.1, Ms.Rebecca Gonsalvez, raises a preliminary objection with regard to the maintainability of the application, directly in this Court. She states that the applicant has directly approached this Court, without approaching the Sessions Court. She submits that there is nothing exceptional in the aforesaid case, which cannot be considered by the Sessions Court.

4. Both the parties have tendered Judgments on which they intend to rely. Perused the same. There can be no dispute, that Section 438 of the Code of Criminal Procedure, confers concurrent jurisdiction and therefore an application directly filed before the High Court is also maintainable. However, judicial propriety warrants, that the applicant should approach the Court of the 1st instance, to maintain judicial hierarchy. Even otherwise, nothing, exceptional has been pointed out for entertaining the said application, in this Court directly. It will be appropriate, that the applicant approaches the Sessions Court, first and then this Court.

5. Application is dismissed and disposed of as such.

6. It is made clear that the applicant is at liberty to file an appropriate application before the Sessions Court, which will be considered on its own merits. It is made clear, that this application has not been heard on merits. All contentions of the parties are kept open.

7. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)