

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

BAIL APPLICATION NO. 2437 OF 2017

Mr. Amjad Kasam Khan & Anr.

... **Applicants**

V/s.

The Commissioner of Customs, Pune & Anr.

... **Respondents**

Mr. Amit Date, with Anjali Thakoor with Prakash Shinghani with Satish Chettiyyar with Amol Wagh i/b Sagar Kasar for the Applicant.

Mr. S.H. Yadav, APP for the Respondent No.2/State.

Mr. Jitendra Mishra for the Respondent No.1.

CORAM : A.S.GADKARI, J.

DATE : 30th OCTOBER, 2017

P.C.:

. This is an application under Section 439 of the Cr.P.C. for bail in Custom Crime No. 38 of 2017 registered with Customs, Pune International Airport, Lohegaon for the offence punishable under Section 135(1)(a) and (b) of the Customs Act, 1962.

2 Heard the learned Counsel appearing for the Applicants and learned Counsel appearing for the Respondent No.1 and perused the record.

3 It is the case of the prosecution that on 10.09.2017, Applicant No.1 arrived at Pune International Airport from Dubai and was proceeding towards exit gate after clearing through the customs green channel. That he was intercepted by the Officers of the Air Customs Intelligence, Pune and gold weighing 3159.55

grams worth Rs.1,00,06,295/- was seized from his custody which was not declared. That the Applicant No.2 was waiting outside the Airport to accept the said delivery.

4 The record indicates that the Applicants have been arrested on 10.09.2017 and from the first date itself they are in judicial custody. The amended provision of Section 104(6)(c) of Customs Act makes an offence punishable under Section 135 relating to import and export of any goods which have not been declared in accordance with the provision of Act (Customs Act, 1962) and the market price of excess one crore rupees.

5 The record indicates that as stated hereinabove in the present case, the Respondent No.1 has valued the seized gold to the tune of Rs.1,00,06,295/-. It further indicates that the investigation is practically completed and the Investigating Agency is in the process of filing complaint in the Court of Competent Jurisdiction. Prima facie, it appears that the further incarceration of the Applicants for the purpose of investigation is not necessary. In view of the fact that since the date of arrest, the Applicants have been remanded in the judicial custody, which is extended from time to time and the investigation is practically completed, the Applicants can be released on bail.

6 Hence, the following order:

i) The applicants be released on bail in Custom Crime No. 38 of 2017 registered with Customs Authority, Pune International Airport, Lohegaon on their

furnishing PR bond of Rs.1,00,000/- each with one or two separate solvent local sureties in the like amount.

ii) After their release from jail, the applicants shall attend the Assistant Commissioner of Customs, Air Intelligence Unit, Pune Customs, Pune on every first Monday of the month between 10.00 a.m. to 12.00 noon till filing of complaint.

iii) After filing complaint, Applicants shall attend the office of the Assistant Commissioner of Customs, Air Intelligence Unit, Pune City once in three months i.e. on first Monday of third month till the conclusion of trial.

iv) Applicants shall also attend all the dates before the Trial Court.

v) The Applicants shall not tamper with the evidence and/or pressurize or threaten the prosecution witnesses.

vi) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)