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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 2258/2017, CrI. M.A. 18236/2017

MOHIT JAIN

..... Petitioner

Through: Mrs. Anjali J. Manish, Mr.
Priyadarshi Manish and Ms. Nidhi
Sahaini, Advs.

versus

DEPARTMENT OF CUSTOMS

..... Respondent

Through: Mr. Satish Aggrawala, Advocate

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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14.11.2017

The petitioner seeks bail. His counsel submits that he has been in custody for almost 52 days and has not been interrogated till date. The petitioner was arrested for alleged violation of offences punishable under Sections 132 and 135 of the Customs Act, 1962. It is also submitted that the petitioner had appeared thrice before the department earlier for investigation, however, the department continues insisting for custodial interrogation, but in the absence of any interrogation the custody of over 52 days has been of no consequence. Counsel further argues that custodial interrogation is no longer necessary. He submits that in any case the petitioner would be

ready and willing to cooperate with the investigating agency as and when it is so intimated by them. It is argued that curtailment of the petitioner's liberty is unjustified. It is stated on affidavit that the petitioner has deep roots in society; from 2013 onwards he has been in the business of trading of surgical equipments; in 2014 he had applied and received IEC Code for import of surgical equipments; he claims to be a tax payee for the last four years and he claims to be a permanent resident of Indore (M.P.) where his family has been residing for the last 40 years.

Additionally, the learned counsel for the petitioner relies for relief of bail upon this Court's order in ***Arvinder Singh vs. Commissioner of Customs*** 2015 (319) ELT 62 (Del.) which case is akin to the present case.

The bail application is resisted by the counsel for the Department of Customs on the ground that the petitioner has not disclosed the whereabouts of one Dhananjay Kumar who alongwith petitioner is allegedly guilty of customs duty evasion of an amount of over Rs.1 crore. He argues that the petitioner knows the whereabouts of Dhananjay Kumar but is not disclosing the same to the respondent. Therefore, till Dhananjay Kumar is apprehended and investigations are completed, the bail should not be granted. In other words, grant of bail is opposed on two counts: i) investigation is till pending and ii) the seriousness of the offence.

In such a circumstance what is necessary for the Court is to ascertain as to whether the petitioner would flee from justice if he is granted bail; whether the nature of the offence is of heinous crime

such as rape or murder; whether the applicant could possibly tamper with the evidence or influence the witness, etc.

In the present case, the petitioner has been in custody for over 52 days without any custodial interrogation. Therefore, it is apparent that his custodial interrogation is no longer necessary and his continued custody would be unjustified.

The Court is of the view that the petitioner has deep roots in society and is not likely to flee from justice if he is granted bail. A case for grant of bail is made out. In the circumstances, the petitioner is directed to be released on bail on his furnishing personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the Trial Court/Investigating Officer. concerned and subject to the condition that the petitioner shall deposit his passport with the Court/Investigating Officer. concerned at the time of furnishing of the bail bond.

The petition stands disposed off.

A copy of this order be given dasti to the parties, under the signature of the Court Master.

NAJMI WAZIRI, J

NOVEMBER 14, 2017/acm