

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7776 of 2018

ORDER:

Heard learned counsel for the petitioner and the learned Special Public Prosecutor representing the respondents and perused the grounds urged in the anticipatory bail application and the order of dismissal of the anticipatory bail application in CrI.M.P.No.2548 of 2018 by the learned Special Judge for Economic Offences, Hyderabad, dated 19.07.2018 and the copy of the summon issued under Section 108 of the Customs Act with reference to Sections 132 & 135 of the Act dated 02.05.2018 in relation to the investigation into diversion of gold jewellery from NSCBI Airport, Kolkata, allegedly through Anil Kumar Agarwal and Sanjay Agarwal being the proprietrix of M/s. PH Jewels at Hyderabad, State of Telangana.

As observed by the learned Special Judge in the dismissal order of anticipatory bail dated 19.07.2018 particularly from Paras 6 & 7 it is a summon issued under Section 108 of the Customs Act leave about before issuance of show cause notice she has paid the duty as can be seen from the record and the summons mentioned about her business entity did not fulfil the export obligation, she has to appear and there is nothing to interfere against said notice for such appearance much less to interdict by granting anticipatory bail, in the case F.No.DRI/HZU/48-A/1/Int/2017 registered under Section 135 of the Customs Act.

Undisputedly the offences are not punishable above 7 years. There is no specific provision exempting the application of Section 41-A Cr.P.C. leave about the guidelines of the Apex Court in **Arnesh Kumar v. State of Bihar**¹. However, the fact remains that the notice issued is by the West Bengal Directorate of Revenue Intelligence Officials from Kolkata and the interception of husband and son of the petitioner herein is in the International Airport there and the reference now mentioned supra as crime in fact not a crime it appears and it also appears from West Bengal and not from Hyderabad.

Having regard to the above and by taking into consideration of these facts, this Criminal Petition is disposed of by granting interim direction of not to arrest the petitioner for a period of one month from today, however it will not prevent her appearance and interrogation from any fresh notice issued meantime. It is made clear that remedy is left open to approach the concerned Court or High Court at West Bengal if at all chosen to obtain any regular anticipatory bail.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 10.08.2018
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¹ (2014 (2) ALT (Gr.) 457 SC)