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

+ **BAIL APPLN. 2380/2017**

KAMLESH SONAGELA

..... Petitioner

Through: Mr. Vikas Pahwa, Sr. Adv. with Mr.
Rishi Bhuta, Mr. Saurabh Soni, Mr.
Tushar Agarwal and Ms. Aashita
Khanna, Advs.

versus

THE STATE GOVT OF NCT OF DELHI & ANR Respondents

Through: Mr. Satish Aggarwala and Ms. Pooja
Bhaskar, Advs.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **28.02.2018**

By this application under Section 438 Cr.P.C., petitioner has prayed for grant of anticipatory bail, in a case registered by Directorate of Revenue Intelligence vide DRI F No. DRI/HQ-GI/338/XIV/ENQ-9/INT-NIL/2016.

Learned senior counsel for the petitioner submits that petitioner is a NRI. Presently, he is working in Dubai. Petitioner has been named by the co-accused Bhavesh Jethmalbhai Thakkar, who is also cousin of petitioner. As per the respondent co-accused, in his statement under Section 108 of the Customs Act has stated that petitioner had financed import of cigarettes. One accused has already been arrested and subsequently granted bail since complaint was not filed within the stipulated time. The other co-accused has been granted anticipatory bail by the Additional Sessions Judge. There is apprehension of

arrest of the petitioner. Petitioner is willing to join the investigation/enquiry. Therefore, anticipatory bail may be granted to the petitioner.

Learned counsel for the respondent submits that, on the basis of intelligence report, goods in respect of Bills of Entry No. 6590672 in the name of M/s Ganpati Overseas lying in ICD, Dadri, U.P. were examined which led to recovery and seizure of 57,60,000 sticks of cigarettes valued at ₹6,91,20,000/-. Cigarettes were a notified item under Section 123 of the Customs Act, 1962 vide Notification No. 103/2016-Customs (N.T.) dated 25th July, 2016. The Cigarettes were illegally imported by concealing behind the boxes containing insulating flexible tubes valuing ₹15,63,396.45. The goods were seized vide panchnama dated 3rd September, 2016. Co-accused Bhavesh Jethmalbhai Thakkar was arrested and produced before the Chief Judicial Magistrate, Gautam Budh Nagar, U.P. In his statement under Section 108 of the Customs Act, the said accused named the petitioner. He stated that he, petitioner and co-accused Apurva thakkar had hatched a conspiracy for smuggling the cigarettes from Dubai to India in the form of Insulated Rubber Tubes.

It is further submitted that summons were issued to petitioner under Section 108 of the Act for making enquiry but petitioner has avoided to join the enquiry. There is no immediate apprehension of arrest of petitioner, thus, present bail application is premature. It is further the case of the respondent

that this Court has no territorial jurisdiction to entertain the present petition as the goods were seized in Dadri, inasmuch as, co-accused was produced in District Court Gautam Budh Nagar. Offence is committed in Dadri, inasmuch as complaint would be filed in the same court, thus, this court has no jurisdiction to entertain this application.

Learned counsel for the respondent further submits that anticipatory bail has been granted by the trial court to co-accused without any jurisdiction. A petition has already been filed against the said order which is pending in this court.

I need not go into the question of territorial jurisdiction at this stage since present bail application is otherwise premature in view of the specific stand taken by the respondent in its reply that there is no immediate apprehension of arrest as petitioner has been summoned for enquires to be made under Section 108 of the Customs Act. Accordingly, bail application is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

FEBRUARY 28, 2018

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