

Anand

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

BAIL APPLICATION NO. 2098 OF 2019

Sanjay Kumar Didwania .Applicant

Vs.

The Intelligence officer & anr. .Respondents

**WITH
BAIL APPLICATION NO. 2099 OF 2019**

Manohar Bhavarlal Kothari .Applicant

Vs.

The Intelligence officer & anr. .Respondents

**WITH
BAIL APPLICATION NO. 2100 OF 2019**

Jaiprakash Saini .Applicant

Vs.

The Intelligence officer & anr. .Respondents

Dr. Sujay Kantawala a/w Mr. Yogesh Rohira, Advocate, for the Applicants **in all matters**

Mr. Rajnath Pathak, Advocate, for the Respondent No. 1 – DRI **in all matters**

Mrs. P. P. Shinde, APP, for the Respondent No. 2 – State **in B. A. Nos. 2098 & 2099 of 2019**

Mr. V. V. Gangurde, APP, for the Respondent No. 2 – State **in B. A. No. 2100 of 2019**

Mr. Rajnath Pathak, Advocate, for the Respondent No. 1 **in all matters**

CORAM : REVATI MOHITE DERE, J.

DATE : 31.07.2019

P.C.

. Heard learned counsel for the parties.

2. By these Applications, the Applicants seek their enlargement on bail in connection with F. No. DRI/MZU/C/INT-102/2019 in RA/122/2019 pending before the 8th Court, Esplanade, Mumbai for the alleged offence punishable under Section 135 of the Customs Act, 1962.

3. Perused the papers. According to the Respondent No. 1 – DRI, Mumbai Zonal Unit, they have received certain information, about alleged smuggling of foreign marked gold bars to Mumbai from different cities of India, by domestic airlines. It is alleged that after getting the said goods cleared from the Concor Air Ltd, the agency handling the Domestic Cargo, the foreign marked gold bars were to be delivered to different persons / jewellers in Mumbai. On receipt of the said information, the DRI arrived at Concor Air Ltd., and examined the said parcels on 14.06.2019, resulting in recovery of 32.200 kgs of foreign marked gold bars and cut pieces of foreign marked gold bars. The aforesaid Applicants were consignees of the said parcels. The

Applicants are in the business of courier services. The said gold bars and cut piece of foreign marked gold bars were seized by the DRI authorities under the Customs Act, as they were under the reasonable belief that the foreign marked gold bars were smuggled in the country.

4. Learned counsel for the Applicants submits that the Applicants are the Directors of different courier agencies and their job was only courier related i. e. pick up the delivery of the parcel and handover / deliver the parcel to the owner of the parcel. He submitted that there is no question of the Applicants having any knowledge about the contents of the said parcel, as the Applicants are running a local courier service i. e. within India, delivering consignments, within India. The Applicants are in custody for almost 46 days. Prima facie, it appears that the Applicants are running courier services and as such, are concerned with receiving parcels sent by the respective parties from different parts of the country and delivering the same to the parties, to whom the consignment / parcel is sent.

5. Learned counsel for the Respondent No. 1 – DRI states that the statements of the Applicants revealed that the Applicants were aware of the contents in the parcel. Learned counsel for the Applicants

vehemently denies having any knowledge, as there is no requirement to inspect the said parcels. Prima facie, it appears that the parcels were to be delivered to some local persons in Mumbai, through the Applicants' courier agencies. Whether or not the Applicants had knowledge of the contents, is a matter which will be decided by the trial Court.

6. Having regard to the aforesaid, further detention of the Applicants is not warranted. Accordingly, the Applications are allowed and the Applicants are enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicants be released **on cash bail** in connection with F. No. DRI/MZU/C/INT-102/2019 in RA/122/2019 pending before the 8th Court, Esplanade, Mumbai in the sum of Rs. 1,00,000/- each, **for a period of six weeks;**

(ii) The Applicants shall within the said period of six weeks, furnish P. R. Bond in the sum of **Rs. 1,00,000/- with one or more sureties** in the like amount;

(iii) The Applicants shall report to the DRI office twice a week i. e. **on every Thursday and Friday** between **11.00 a. m. and 1.00 p. m.** for a period of three months or till the issuance of Show

Cause Notice, whichever is earlier;

(iv) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The Applicants shall co-operate with the conduct of the trial;

(vi) The Applicants shall not leave the country without the prior permission of the trial Court.

7. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

(REVATI MOHITE DERE, J.)