

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.540 of 2019

The Senior Intelligence Officer
Directorate of Revenue Intelligence
27, G.N.Chetty Road, T.Nagar
Chennai-600 017.

...Petitioner /Respondent/Complainant

vs.

Shri Abdul Khader

...Respondent/Petitioner/1st Accused

Prayer: Criminal Original Petition is filed under Section 439 (2) of Cr.P.C., to cancel the bail order dated 21.12.2018 granted by the Principal Sessions Judge, Chennai in Crl.M.P.No.21834 of 2018 in R.R.No.37 of 2018 pending on the file of the Addl. Chief Metropolitan Magistrate (E.O.II), Egmore, Chennai.

For Petitioner : Mr.N.P.Kumar
Special Public Prosecutor
for DRI Cases

For Respondent : Mr.R.C.Paul Kanagaraj

सत्यमेव जयते

ORDER

This petition has been filed seeking to cancel the bail granted by the Court below by an order dated 21.12.2018.

2. Mr.N.P.Kumar, the learned Special Public Prosecutor appearing on behalf of the petitioner department submitted that the Court below failed to appreciate the fact that the respondent/A1 was the master-mind in Chennai and was part of the smuggling gang which was headed by a person in Hongkong who had hatched conspiracy to smuggle foreign marked gold bars into India through the airports in India by passenger-carriers of

foreign origin who bring the same to India and stayed at various destinations and handed over the same to the respondent. In the instant case, 6 kg of gold bar was received by the two passenger-carriers at Honkong and was brought into India to be smuggled through Chennai Airport and to be handed over to the respondent. The petitioner, on prior information, had arrested two Korean nationals who arrived at Chennai on specific intelligence received by the petitioner.

3. The learned Special Public Prosecutor submitted that the Court below had taken into consideration the health grounds raised by the respondent without any materials to substantiate the same. Therefore, the learned Special Public Prosecutor submitted that the Court below did not take into consideration the seriousness of the offence committed by the respondent and the order was passed without any application of mind. Therefore, the order of the Court below requires interference by this Court.

4. Mr.R.C.Paul Kanagarj, the learned counsel appearing on behalf of the respondent submitted that the respondent had appeared before the department and his statement was also recorded. That apart, the respondent was suffering from various health issues and in fact, he was undergoing treatment for heart disease inside the prison hospital. The learned counsel further submitted that the gold has already been seized by the department and the respondent is co-operating for the investigation and has complied with all the conditions imposed by the Court below at the time of granting bail and therefore, the learned counsel submitted that there is no ground for interfering with the order passed by the Court below or for cancellation of bail.

5. This Court has carefully considered the submissions made on either side and also the order passed by the Court below. The Court below has taken into consideration, the facts and circumstances of the case and also of the fact that the petitioner had already recorded the statements of all the accused persons and had also seized the gold that was attempted to be smuggled into India. The Court below has also taken into consideration, the ailments suffered by the respondent and also the period of incarceration he has already suffered. The Court below has imposed sufficient conditions against the respondent to ensure that the respondent co-operates at the time of enquiry and he does not escape from the clutches of law.

6. This Court is not able to see any supervening circumstances in order to interfere with the order passed by the Court below. In a case involving cancellation of bail, this Court has to take into consideration the seriousness of the accusations made against the accused persons and also whether

the accused persons will tamper with any evidence or abscond or interfere with the course of investigation. None of these criterias are fulfilled in the present case and the Court below has given sufficient reasons for granting bail to the respondent by providing sufficient safeguards by imposing conditions.

7. In view of the above, this Court is not inclined to interfere with the order passed by the Court below and accordingly, this Criminal Original Petition shall stand dismissed.

Sd/-

Assistant Registrar (Insp Cell)

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Sub Assistant Registrar

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To

1. The Principal Sessions Judge, Chennai
2. The Addl. Chief Metropolitan Magistrate (E.O.II),
Egmore, Chennai.
3. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.540 of 2019

AD(CO)
GN(26/04/2019)

सत्यमेव जयते

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