**IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD**

TUESDAY, THE THIRTY FIRST DAY OF DECEMBER

TWO THOUSAND AND NINETEEN

**:PRESENT:**

**THE HONOURABLE JUSTICE G SRI DEVI**

**CRL.P. NO: 8128 OF 2019**

**Between**:

V.Anil Kumar, S/o Late V.Jagadishwaraiah

..... Petitioner/Accused

**AND**

The Senior Intelligence Officer, Directorate Of Revenue Intelligence, H.N0.10-2-289/57/1 and 2, Suryavanshi Residency -II Cross Road, Shantinagar, Hyderabad-500028 Rep by Spl. P.P.

.....Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in the petition filed herein, the High Court may be pleased to enlarge the Petitioner on Bail pending investigation in F.No.DRI/HZU/48A/ENQ-55(INT-33)/2019 and trial.

The petition coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of Sri Srinivas Chaturvedula, Advocate for the Petitioner, and of Additional Public Prosecutor for the respondent, the Court made the following.

**ORDER**

THE HON'BLE JUSTICE G.SRI DEVI

**CRIMINAL PETITION No.8128 of 2019**

ORDER:

This Criminal Petition, under Sections 437 and 439 Cr.P.C., is filed by the petitioner/accused seeking to enlarge him on bail in F.No.DRI/HZU/48A/ENQ-55(INT-33)/2019 registered for the offence punishable under Section 135 of the Customs Act, 1962 (for short 'the Act').

2. Heard learned counsel for the petitioner, learned Additional Public Prosecutor appearing for the respondent-State and perused the record.

3. Learned counsel for the petitioner submitted that the petitioner was arrested alleging that gold bars fall within the meaning of 'prohibited goods' and since the Hon'ble Court had also held that the gold comes under the prohibited goods and on the said basis, the bail application of the petitioner was rejected. Learned counsel further submitted that for the purpose of preventing injury to the economy of the country by the uncontrollable import or export of gold or silver, the Central Government can issue a notification in the official gazettee prohibiting their import either absolutely or subject to such conditions; that the DRI had recorded confessional statements from the petitioner on 22.11.2019 and 23.11.2019 and his relatives thereafter, under the threat of arrest; that the petitioner was unaware of its contents as he had to sign under compulsion on some computer printouts purported to be his

voluntary depositions after he had orally given answers to some of the questions posed by the officers during interrogation and the same were retracted at the first opportunity in the bail petition filed before the Court below as the same were not voluntary depositions of the petitioner; that the DRI had not adduced any iota of evidence that the petitioner had knowledge that the gold ordered by him or the gold delivered to him was liable to confiscation under Section 111 or 113 of the Act; that since the importer was not associated in any manner with the import of the said gold bars, there is no possibility whatsoever that he knows or would have reason to believe that the gold bars were liable for confiscation and as such, the petitioner cannot be accused of any offence under Section 135 of the Act. Learned counsel further submitted that in view of the petitioner's absolute lack of knowledge as to the source of procurement of the seller of the gold bars in question, there is no legal ground to presume that he had committed any offence under the Act much less the offence under Section 135 of the Act; that the petitioner was not involved in any offence in the earlier occasions; that the petitioner has no criminal antecedents or previous convictions; that he hails from a respectable family and his family is engaged in the gold trade since past 125 years with an unblemished record; and that the petitioner is in custody since 23.11.2019. Accordingly, learned counsel prayed to enlarge the petitioner on bail.

4. Sri P.Dharmesh, learned Special Public Prosecutor, appearing for the respondent, opposed to grant bail to the petitioner.

5. The respondent filed a counter stating therein that the summons were issued to the petitioner on 22.11.2019 and his statement was recorded under Section 108 of the Act, wherein he has *inter alia* admitted to have purchased the foreign marked smuggled gold and paid for them in cash and as such, he was arrested and produced before the Special Judge for Economic Offences, Nampally and thereafter he was remanded to judicial custody. The petitioner's claim that their family is in gold business for the past 125 years with an unblemished record is far from truth as there were instances that the petitioner had purchased gold from different sources on cash basis which clearly indicates that by doing cash payments he was doing business without entering the same in books of record in order to avoid the payment of relevant taxes and the petitioner was dealing with huge quantities of gold with huge profits by evading the applicable tax payments and the *modus operandi* adopted by the petitioner in purchasing non-customs duty paid foreign marked gold from one Sri Sachin does not depict him as a *bona fide* buyer at all. The claim of the petitioner that his statements were recorded on 22.11.2019 and 23.11.2019 and his relatives thereafter under threat of arrest and that he was made to sign on documents under compulsion are all false and baseless allegations. The other accused are absconding and the case is under investigation and in view of the above, the petitioner is not entitled to be released on bail.

6. In view of the above submission of the learned Special Public Prosecutor appearing for the respondent that the foreign marked

smuggled gold has already been recovered in pursuance of the confession of the petitioner and the petitioner is not having any criminal antecedents and looking into the nature of allegations levelled against the petitioner and the facts and circumstances of the case, without delving into the merits of the case, I am inclined to allow this Criminal Petition subject to the following terms and conditions:-

(i) the petitioner/accused shall be released on bail on his furnishing a personal bond to the tune of Rs.2,00,000/- (Rupees Two lakhs only) with two local sureties to the like amount each to the satisfaction of the learned Special Judge for Economic Offences, Nampally, Hyderabad.

(ii) that the petitioner/accused shall not indulge in any similar type of activities, in future;

(iii) that the petitioner/accused shall not tamper with the evidence of prosecution witnesses;

(iv) that the petitioner/accused shall not intimidate or give threat to any person or official or any of their family members during the period of trial;

(v) that the petitioner/accused shall cooperate with the Investigating Agency in procuring the relevant documents and other material, as required by the authorities for the purpose of investigation and shall cooperate with the Investigating Agency in concluding investigation;

(vi) that the petitioner/accused shall surrender his passport and Visa before the respondent authorities and shall not leave the jurisdiction of the Court concerned or Country without prior permission of the Court concerned;

(viii) that the petitioner/accused shall appear before the Investigating Officer on every Monday between 10 am and 2 pm for a period of four months or till completion of investigation, whichever is earlier.

7. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

SD/- B.SATYA VATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Special Judge for Economic Offences, Nampally, Hyderabad
2. The Superintendent, Chanchalguda Prison, Hyderabad
3. The Senior Intelligence Officer, Directorate Of Revenue Intelligence, H.N0.10-2-289/57/1 and 2, Suryavanshi Residency -II Cross Road, Shantinagar, Hyderabad-500028
4. Two CCs to the Public Prosecutor, High Court at Hyderabad (OUT)
5. One CC to Sri Srinivas Chaturvedula, Advocate (OPUC)
6. One spare copy.

HIGH COURT

GSD,J

DATED: 31.12.2019

ORDER:

CRLP. NO:8128 of 2019

BAIL