

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRM-M No.32548 of 2019 (O&M)**

**Date of decision: 02.09.2019**

Rakesh Rai

....Petitioner

Versus

Customs and Central Excise Department, Amritsar

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

**Present:** Mr. Jagmohan Bansal, Advocate for the petitioner.

Mr. Sunish Bindlish, Advocate for the respondent.

**ARVIND SINGH SANGWAN J.**

Prayer in this petition is for grant of anticipatory bail to the petitioner in a case registered under Section 135 of the Customs Act, 1962 (in short 'the Act').

Brief facts of the case are that vide *Panchnama* dated 22.03.2019, the Customs and Central Excise Department, recovered one gold bar weighing 999.50 grams from a bus bearing No.PB02-CR-3991, which was used to carry passengers arriving from Dubai through Indigo Airlines. The authorities, thereafter, apprehended one Sahib Singh, the driver of the bus and recorded his statement on 22.03.2019 in which he has stated that the abovesaid 01 Kg gold bar was handed over to him by a passenger, who had arrived from Dubai and he did not know his name but he can recognize him. It was further stated that the same was to be collected by one Pardeep Saini working as Assistant Manager (Fire Service) in Airport Authority. Thereafter, Pardeep Saini

was apprehended and in his statement, he admitted that Sahib Singh had to deliver the 01 Kg. gold bar to him and even on earlier three occasions, the same was given to him. He further stated that the same was to be further delivered to one Narayan Sharma. Thereafter, the authorities apprehended Narayan Sharma and he recorded his statement under Section 108 of the Act wherein he has stated that on 03.03.2019, first time he along with Vaibhav Rai visited Dubai and thereafter, on 17.03.2019, he visited Dubai and on his instructions, he had handed over the gold to the driver of the Indigo bus.

Counsel for the petitioner has submitted that Narayan Sharma has been granted the concession of regular bail by this Court vide order dated 07.05.2019 passed in CRM-M No.19831 of 2019 whereas Sahib Singh was released on bail by the trial Court. The petitioner apprehending his arrest filed the anticipatory bail before the Additional Sessions Judge, which was declined.

Counsel for the petitioner has further submitted that in pursuance to the notice of motion dated 02.08.2019, he had gone to join the investigation but he was not permitted.

Reply on behalf of the Customs and Central Excise Department through Commissioner of Customs, Amritsar filed in the Court in taken on record.

As per the reply, the petitioner was directed to appear before him but he failed to appear despite two notices dated 30.03.2019 and 03.04.2019. Thereafter, a search was conducted in his office premises i.e. M/s. Master Travels, New Delhi and 04 CPUs were recovered. It is further stated that as per the statement of Meenakshi

Sharma, an employee of M/s. Master Travels, which is a partnership firm of the son of the petitioner and his wife Rajni Rai, the firm is engaged in booking of air ticket and all the carriers involved in the gold smuggling racket were booked by this firm and the payments were made by son of the petitioner Rakesh Rai. The details of the same are given in the reply. It is further stated that the petitioner Rakesh Rai acted as a Financer in the whole racket and he had handed over 33000 U.S. Dollars on 16.03.2019 for purchase of 01 Kg. gold to Pardeep Saini. It is also stated that as per the statement of Narayan Sharma, he had visited Dubai twice and an amount of 33000 U.S. Dollars was handed over to Rakesh Rai and Pardeep Saini for purchasing the gold, which was to be brought to this country and on earlier occasion, he has already brought 04 Kgs. of gold. It is further stated that the gold is liable to be confiscated as the market price of the gold, corresponding to the foreign currency, is more than Rs.1 crore, which makes the offence non-bailable under Section 104 of the Act.

Counsel for the respondent has further submitted that since the petitioner along with his son and others is running a racket and as the market value of the smuggled gold is more than Rs.1 crore, there is a provision of imprisonment which may extend to 07 years under Section 135 of the Act and therefore, the anticipatory bail of the petitioner may be dismissed as even against the son of the petitioner Vaibhav Rai, non-bailable warrants have already been issued.

Counsel for the respondent has relied upon the order dated 20.04.2017 passed by the Hon'ble Supreme Court in **Criminal Appeal No.767 of 2017** titled as ***“State of Bihar vs Amit Kumar @ Bacha***

*Rai*” to argue that it is well settled that socio-economic offence constitute a class apart and need to be visited with a different approach in case of bail. It is held by the Hon'ble Supreme Court that usually the socio-economic offence have deep rooted conspiracies affecting the moral fiber of the society causing irreparable harm and therefore needs to be considered seriously.

After hearing the counsel for the parties, I find no ground to grant anticipatory bail to the petitioner. As per the investigation conducted so far, it has come on record that on more than 04 occasions, the accused persons in conspiracy with each other has brought the gold in an illegal manner and the market value of the same is more than Rs.1 crore making the offence as non-bailable, the allegations against the petitioner is that he is the main king-pin of the racket and is the Financer, who has provided 33000 U.S. Dollars to the co-accused for purchase of 01 Kg. gold and the same was brought from Dubai to Amritsar where it was seized. The investigation further show that even on 03 earlier occasion in a similar manner, the gold was smuggled in the country, for which the authorities need deep probe and thus, the custodial investigation/interrogation of the petitioner is required.

In view of the above, considering the serious allegations against the petitioner, I find no ground to grant anticipatory bail to the petitioner.

Dismissed.

(ARVIND SINGH SANGWAN)  
JUDGE

02.09.2019

yakub

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No