

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35180-2019

Date of Decision: 25.11.2019

Khalid

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. G.S. Sawhney, Advocate
for the petitioner.

Mr. Pawan Sharda, Senior DAG, Punjab.

Mr. Anshuman Chopra, Senior Standing Counsel
for respondent No.2 - UOI.

HARINDER SINGH SIDHU, J

Prayer is for grant of anticipatory bail.

On an application moved by respondent No.2 in CRM-1408/2019 the Ld. CJM Amritsar issued non-bailable warrants against the petitioner on 14.05.2019.

The case pertains to seizure of 27 gold bars at ICT Attari, Amritsar, allegedly from consignment of fresh fruits i.e. apples and pomegranates imported from Afghanistan by one Ram Niwas Mohar, proprietor of M/s Universal Solution Kangaheri, New Delhi and exported by M/s Amini Sadri Limited, Kabul, Afghanistan.

The learned counsel for petitioner contends that the petitioner is innocent and has no concern with any alleged consignment or the gold bars.

The petitioner is a student. He was only assisting his father. The main accused Ram Niwas Mohar is not known to him. The statement of the petitioner was recorded on 05.03.2019 and he had furnished all required information to respondent No.2 i.e. Superintendent of Customs, Amritsar. There was no need to issue show cause notice to him again and again. He is willing to cooperate with the investigating agency.

In the reply filed on behalf of respondents, it is stated that main accused Adel Sayed Gulam, an Afghan National in his statement dated 27/28.02.2019 stated that on arrival of every consignment, Mohd. Khalid alias Khalid alias Oriya, an Afghan National used to retrieve the gold from each consignment and hand over it to Haji Sharif alias Barkat Khan. Barkat Khan is father of the petitioner. During search of the shop of Barkat Khan 403000/- foreign currency of different denominations equivalent to Rs.2,62,730/- along with three phones was recovered. The petitioner in his statement dated 05.03.2019 had admitted his involvement in business with his father. It is alleged that both petitioner and his father are involved in gold smuggling activity to the extent that they take care of payment of gold smuggling crossing borders through hawala transactions illegally. Their involvement is not limited to present case only but has been happening for quite some time as stated by Adel Saeed Ghulam. Statement of the petitioner was recorded on 05.03.2019, but some additional information was required from him. Summons dated 11.04.2019 and 26.04.2019 were issued and delivered to him personally. The third summon dated 03.05.2019 was also issued for his appearance on 08.05.2016, but he chose not to appear on all three occasions. Summons under Section 108 of Customs Act is a quasi judicial proceeding and any

disobedience of summon/order attracts penalty under Sections 172 and 174 I.P.C. It is further stated that during the search conducted at the shop, Barkat Khan, father of petitioner, who used to take 2 to 3 biscuits of smuggled gold from Adel Saeed Ghulam from every consignment slipped away from the back door of shop. This was admitted by the petitioner in his statement dated 05.03.2019. He had assured that his father Barkat Khan would appear before the Customs officials as and when called. However, the petitioner himself absconded from investigation and neither he nor his father appeared before the investigating officials. It is further stated that the accused deals in hawala transactions and assists his father who is also an accused in smuggling chain/racket of 32.654 gold, worth Rs.9.41 crores.

From the above, it appears that the petitioner had appeared before Custom authorities on 05.03.2019 and his statement was recorded. But some additional information was required from him hence summons dated 11.04.2019 and 26.04.2019 were issued and delivered to him personally. The third summon dated 03.05.2019 was also issued but he did not appear. It is alleged that the petitioner deals in hawala transactions and assists his father Barkat Khan in the hawala transactions.

In the totality of the facts and circumstances there appears to be no ground to grant the concession of pre-arrest bail to the petitioner.

Dismissed.

November 25, 2019

gian

**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No