IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

TUESDAY, THE 08TH DAY OF DECEMBER 2020 / 17TH AGRAHAYANA, 1942

Bail Appl..No.8191 OF 2020

OR NO.12/2020 OF DIRECTORATE OF REVENUE INTELLIGENCE CALICUT REGIONAL UNIT, Kozhikode

PETITIONER/S:

NISSAR U
AGED 35 YEARS
SON OF LATE MAYIN, ULUVAN HOUSE, MELMURI P.O
MALAPPURAM
676517

BY ADVS.
SRI.MANU TOM
SRI.K.R.JITHIN
SHRI.BALAMURALI K.P.
SHRI.SHAJI T.M.

RESPONDENT/S:

DIRECTORATE OF REVENUE INTELLIGENCE, CALICUT THROUGH SENIOR INTELLIGENCE OFFICER REPRESENTED BY THE SENIOR CENTRAL GOVT.STANDING COUNSEL, HIGH COURT OF KERALA

R1 BY SHRI.S.MANU, CGC, DIRECTORATE OF REVENUE INTELLIGENCE KERALA REGIONAL UNIT

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.12.2020, ALONG WITH Bail Appl..8149/2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

TUESDAY, THE 08TH DAY OF DECEMBER 2020 / 17TH AGRAHAYANA, 1942

Bail Appl..No.8149 OF 2020

OR NO.12/2020 OF DIRECTORATE OF REVENUE INTELLIGENCE CALICUT REGIONAL UNIT, Kozhikode

PETITIONER/S:

PUTHOOCHALIL ISMAIL
AGED 38 YEARS
SON OF EBRAYI, POOTHUCHALIL HOUSE,
KADAMERI P.O., VILLAPPILLY,
KOZHIKKODE DISTRICT.
673542

BY ADV. SRI.BABU S. NAIR

RESPONDENT/S:

SENIOR INTELLIGENCE OFFICER
DIRECTORATE OF REVENUE INTELLIGENCE,
CALICUT, REPRESENTED BY THE SPECIAL PROSECUTOR,
DRI, HIGH COURT OF KERALA, ERNAKULAM, KOCHI
682031

R1 BY SHRI.S.MANU, CGC, DIRECTORATE OF REVENUE INTELLIGENCE KERALA REGIONAL UNIT

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08.12.2020, ALONG WITH Bail Appl..8191/2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

COMMON ORDER

[Bail Appl..8191/2020, Bail Appl..8149/2020]

Dated this the 8th day of December 2020

Applications for regular bail under Section 439 Cr.P.C.

The applicant in BA No.8149/2020 is the first accused and the applicant in BA No.8191/2020 is the second accused in OR No.12/2020 of Directorate of Revenue intelligence, Calicut, for having allegedly committed offences punishable under Sections 135 (1)(b) of the Customs Act.

2. The prosecution case, in brief, is that on a tip off that was received by the officers of Directorate of Revenue Intelligence (DRI), they intercepted two passengers who had arrived at Calicut International Airport from Dubai on 06.11.2020 by the same flight at 3.40 p.m. On examination of their baggage, both the accused were found to be in possession of gold concealed

in their body inside the undergarment. The first accused was in possession of gold in mixture form in polythene bag which was concealed in his under garment and four capsules of gold mixture was concealed in his rectum, total weighing 2527 grams. After melting process, 24 carat purity gold of 2228.7 grams worth Rs.1,20,21,608/- was extracted. The second accused had in his possession two packets of gold in mixture form in polythene bag concealed inside specially made waist bag around his waist and four capsules of gold mixture concealed in his rectum, total weighing 2472 grams which after melting was found to be 2102.1 grams of gold and the market value was Rs.1,13,38,727/-. Both of them were arrested, their statements were recorded and remanded to judicial custody and continue to remain in custody. The investigation reveals that both the applicants were involved in gold smuggling and

were working under the instructions of someone. The persons for whom the applicants were carrying gold have not been lamped so far. Their applications for bail filed before the jurisdictional court and also the Sessions court were dismissed and hence the applicants have approached this Court for indulgence.

3. The learned counsel appearing for the applicants would contend that they are legally entitled to import gold worth Rs.1 crore and it is submitted by the counsels appearing for both the accused that the quantity of gold which was allegedly carried by the applicants were marginally about the permissible limit and moreover it is submitted that they do not have any criminal antecedents. Their statements have been recorded. They have permanent places of abode and there is no possibility of their absconding. They are from the marginalized society and were

carriers of gold for paltry remuneration. Therefore they submitted that they may not be incarcerated any longer.

4. The learned Public Prosecutor appearing for the DRI submits that the applicants are carriers and the persons for whom they were working had not yet been dampened and hence further investigation in that regard is required and therefore they may not be granted bail at this stage when the investigation is still going on. It is submitted that even eligible passengers could bring only 1 kg of gold and the applicants were in possession of more than double that amount which they could have legally imported. Hence, they may not be granted bail.

5. The applicants have already been subjected to custodial interrogation and they continue to remain in custody since 06.11.2020. They do not have any criminal antecedents admittedly. They had

given statements indicating the persons for whom they were carrying gold. It appears that they have not been engaged in offences of similar nature previously. They have been engaged for the first time in such offences. Under the circumstances, they can be released on bail on stringent conditions.

6. In the result, the bail applications are allowed and the applicants are directed to be released on bail on execution of bond for Rs.1,00,000 (Rupees One lakh only) each with two solvent sureties for the like amount each to the satisfaction of the jurisdictional court and on the following conditions;

(1) They shall surrender their passports before the jurisdictional court if not already seized and produced before the jurisdictional court.

(2) They shall appear before the investigating

officer on all Mondays between 9 a.m and 12 noon for a period of three months or till filing of the final report whichever is earlier.

(3) They shall not attempt to influence or intimidate the witnesses.

(4) They shall not get involved in similar offences during the currency of the bail.

In the event of violating the bail conditions, the prosecution shall be at liberty to apply for cancellation of bail before the jurisdictional court.

Sd/-

ASHOK MENON

JUDGE

SPK