

Crl.O.P.Nos.7184 to 7189 & 7192 to 7194 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.7184 to 7189 & 7192 to 7194 of 2020

1.Dilip Kumar,
S/o.Karuppiah,
No.28, Gandhiji Colony,
Poochiyenthal,
Ilayangudi Taluk,
Sivakanga District ..Petitioner in Crl.OP.No.7184 to 2020

2 Askar Hussain,
S/o.Liyakath Ali,
No.32, Kilethar Street,
Theppakulam,
Thiruchirapalli Urban-620002 ..Petitioner in Crl.OP.No.7185 to 2020

3.Syed Jaffer,
S/o.Sheik Dawood,
No.12/338, F-11, Thiruvalluvar Nagar,
Paramakudi Taluk,
Ramnad District ..Petitioner in Crl.OP.No.7186 to 2020

4 Syed Abdul Kadhir,
S/o.Masthan Gani,

No.2/2, 7th Lane,
Muktharunisha Begum Street,
Ellis Road, Annasalai,
Chennai 600 002, Tamil Nadu ..Petitioner in Crl.OP.No.7187 to 2020

5 Mohamed Idheriskhan,
S/o.Kaja Maideen,
Old No.250, N.No.88,
Bharathi Salai, Triplicane,
Chennai 600 017, TN ..Petitioner in Crl.OP.No.7188 to 2020

6. Sikkandar,
S/o.Mohamed Ismail,
No.30/20, 2nd Floor,
Dera Venkatasamy Street,
Triplicane, Chennai 600 005,
Tamil Nadu ..Petitioner in Crl.OP.No.7189 to 2020

7.P.Sathishkumar,
S/o.Parutheeswaran,
Plot No.18, 2nd Street,
Secretariat Colony,
Lakshmipuram, Kolathur,
Chennai 600 099 ..Petitioner in Crl.OP.No.7192 to 2020

8. E.V.Rajan,
S/o.Velayudhan,

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No.13/25, Sai Santhana Lakshmi Flats,

First Floor, Rajai Nagar,

Villivakkam, Chennai 600 049 ..Petitioner in Crl.OP.No.7193 to 2020

9.Vikas Sharma,

S/o.Zile Singh,

Block-U, Flat No.8 Lotus Colony,

Nandanam, Chennai 600 035. ..Petitioner in Crl.OP.No.7194 to 2020

Vs.

The Senior Intelligence Officer,

Directorate of Revenue Intelligence,

No.27, GN Chetty Road,

T.Nagar, Chennai 600 017, TN ... Respondent in all Crl.OPs

Common Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in RR.No.6 of 2020 on the file of the Additional Chief Metropolitan Magistrate for Economic Offence-I at Egmore, Chennai.

For Petitioner

in Crl.OP.Nos.7184 to 7189 : Mr.S.Palani Kumar

For Petitioner

in Crl.OP.Nos.7192 & 7193 : Mr.B.Sathish Kumar

For Petitioner

in Crl.OP.No.7194 : Mr.P.S.Amalraj

For Respondent

in all Crl.O.P.s

: Mr.N.P.Kumar,

Special Public Prosecutor

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 20.02.2020 in F.No.DRI/VIII/48/ENQ-01/INT-03/2020 on 20.02.2020 at 11.45 P.M., for alleged offences under sections 133 and 135 of the Customs Act, 1962 as amended in connection with the alleged seizure of gold and produced and remanded to judicial custody on 21/02/2020 in RR.No.6/2020 on the file of Additional Chief Metropolitan Magistrate for Economic Offences -I at Egmore, Chennai on the file of the respondent police, seek bail.

2. The case of the prosecution is that the respondent issued arrest memo under section 50 of Cr. P.C and Article 22 (1) of the Constitution stating that “the respondent have reasons to believe that the petitioners have committed an offence punishable under the provisions of section 133 and section 135 of the Customs Act, 1962, in respect of 12693 grams of foreign origin gold totally valued at Rs.5.44 Crore vide Mahazar dated 19/02/2020 drawn at the Arrival Hall of Anna International Airport” and the petitioners were arrested by the respondent in F.No.DRI/VIII/48/ENQ-01/INT-03/2020 on 20.02.2020 at 11.58 P.M., for alleged offences under sections 133 and 135 of the Customs Act, 1962 as amended in connection with the alleged seizure of gold and produced and remanded to judicial custody on 21/02/2020 in RR.No.6/2020 on the file of Additional Chief Metropolitan Magistrate for

Economic Offences -I at Egmore, Chennai.

3. The learned counsel for the petitioners submitted that on extraneous reasons it was shown arrest along with number of other individual passengers who are all coming from different flight from different countries by pooling the alleged gold brought by all the passengers under one remand report for the purpose of convenience of the respondent and petitioners do not know involvement of any other passenger arrested along with them and the remand report contains full of falls particulars to justify and detained the petitioners and several other accused persons in one case which is not permitted under the provisions of Customs Act, 1962 as amended in view of section 77 of Customs Act, 1962 as amended.

4. He further submits that the respondent allegedly seized only about 1130 grams of gold from the petitioners and it is very lesser value to arrest them under non bailable section and in order to boost the value to more than Rupees one crore to enable them to arrest under subsection(i) of section 135 of the Customs Act, 1962, the respondent has pooled together the gold brought by several other passengers under one case which is not permissible under law and is contra to section 77 of the Customs Act, 1962 and each passenger has to declare separately what are the goods brought by them separately and pay Customs Duty if any, the petitioners are not responsible for the goods brought by any other passenger and their non-declaration or mis-declaration and its nature of goods.

5. The learned Special Public Prosecutor filed counter and submitted that that based on specific intelligence Directorate of Revenue Intelligence, Chennai Zonal Unit (DRI-CZU for short) vide Mahazars dated 19.02.2020, 21.02.2020 drawn at Chennai Airport and residential premises seized total quantity of 12693 grams of foreign origin gold mobiled into India through Chennai Airport from 18 passengers who arrived on 19.02.2020 from Malaysia, Colombo and Dubai and Indian currency of Rs.96.59 Lakhs with jewels valued about Rs.5,44,69,525/-.

6. He also submitted that the petitioners herein were arrested on 21.02.2020 along with other accused persons in connection with seizure of 12693 grams of gold totally valued at Rs.5,44,69,525/- by the Complainant Department under the Customs Act, 1962 for their involvement in the above case. Subsequently, 4 more persons were arrested by the Department under the Customs Act, 1962 for their involvement in the above said case. The Hon'ble Economic Offences I Court at Egmore was pleased to remand the above said persons in judicial custody.

7. He further submitted that the first accused had entered into a criminal conspiracy with one Ameer @ Ameer Bhai @ Ali @ Ali bhai of Chennai and other operators known to him and unknown to the Department, who had arranged the gold from Malaysia/Dubai/Colombo to indulge in smuggling of gold from abroad through Chennai airport without detection by Customs Officers posted there. In furtherance of this arrangement, Ameer Ali in collaboration with operators smuggling gold in other countries would

engage the services of the passengers (kuruvis) known to him and unknown to the Department for smuggling gold from abroad into India through Chennai Airport by concealing them in their rectum. In pursuance of this conspiratorial arrangement, the operators based abroad would hand over the gold in paste form in packed condition to the passengers who in turn would conceal them in their rectum. The operators would take photographs of these passengers and send them to Ameer Ali through WhatsApp who in turn would send them to the Accused A1 who being an ex-employee of Customs and having extensive knowledge of the working of the Customs officers posted in Chennai Airport in Batch duty, approached Accused 2 and Accused 3, Preventive officer of Customs currently posted and working as Air Customs Officers at Chennai Airport on Batch duty, and requested them to facilitate smooth passage of smuggled gold through Chennai Airport by not checking/frisking of passengers carrying the smuggled gold. As per the arrangement agreed upon by the trio A1 to A3, A1 would send the pictures of the passengers (kuruvis), who would be carrying the smuggled gold concealed in their rectum and arriving at Chennai Airport from different countries, received from one Ameer Ali, to A2 and A3 through WhatsApp for identification of these passengers, who in turn would identify the said passengers on arrival and facilitate their smooth passage out of the customs arrival area by not checking/frisking them. The passengers including the Accused 13 herein who arrive with the smuggled gold concealed in their rectum would clear the customs arrival area unhindered and upon exit would hand over the smuggled gold by ejecting them at an appropriate place outside the Chennai Airport to the persons arranged by Ameer Ali and collect the agreed monetary consideration.

8. He further submitted that in continuation of this conspiratorial arrangement on the morning of 19.02.2020, the Accused A1 had sent photos of the passengers who would be arriving by different flights on 19.02.2020 to Accused 2 and 3 through WhatsApp. But for DRI's timely interception of Accused 2 herein and 3 and recovery of their mobile phones, further resulted in the interception of 18 passengers including the Accused 13 herein which led to the recovery and seizure of 12963 grams of gold valued at Rs 5,44,69,525/- under Customs Act, 1962 and the apprehension of the accused A1 through follow up action, the above said smuggling gang would have continued to indulge in smuggling of gold in huge quantity at an alarming frequency. Therefore, he vehemently opposed to grant bail to the petitioners.

9. It is seen that the petitioners have committed very serious offence and the offences registered against the petitioners are clearly attracted. Moreover, they have been arrested and remanded to judicial custody. Further, there is apprehension that the accused persons would have continued in indulging in mobilising gold in huge quantity. Therefore, this Court is not inclined to grant bail to the petitioners, and these criminal original petitions are dismissed.

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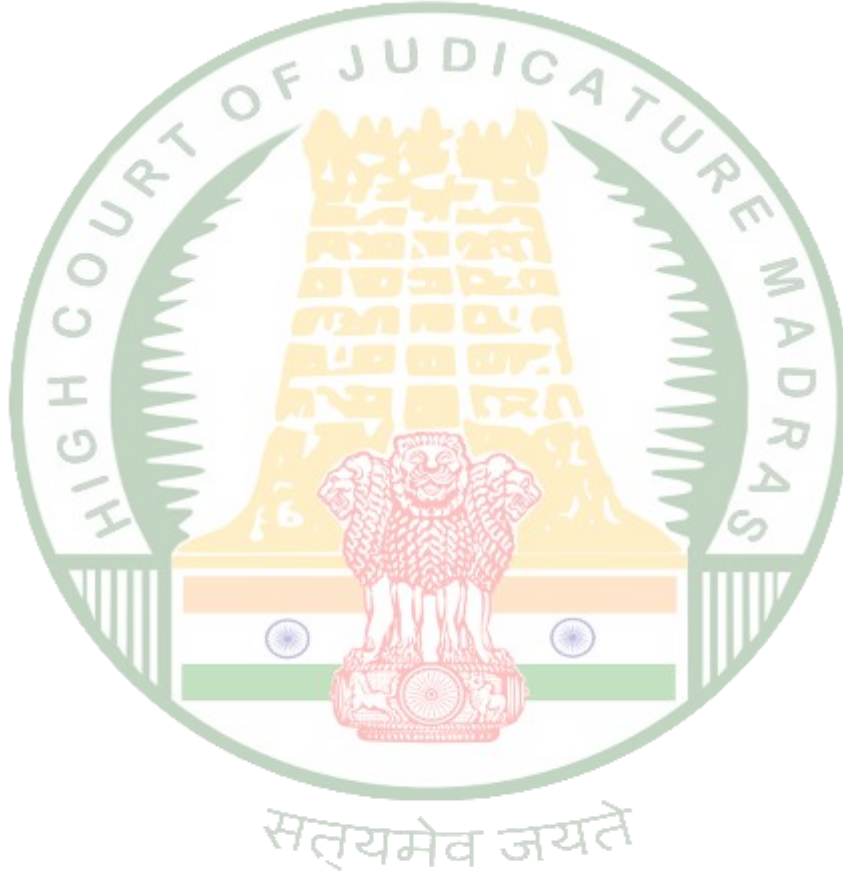
04.05.2020

Index : Yes/No

Internet : Yes/No

Speaking order/Non-speaking order

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To

1. Additional Chief Metropolitan Magistrate (E.O-1),
Egmore, Chennai-8
2. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, GN Chetty Road,
T.Nagar, Chennai 600 017, TN
3. The Public Prosecutor,
High Court, Madras.

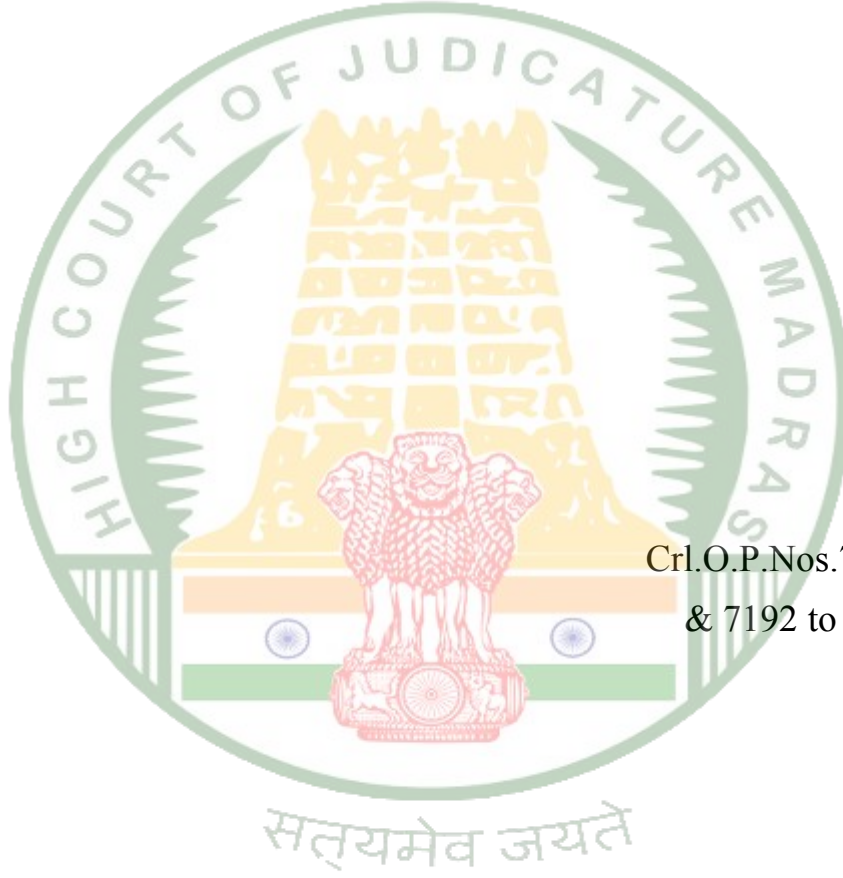


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G.K.ILANTHIRAIYAN, J.

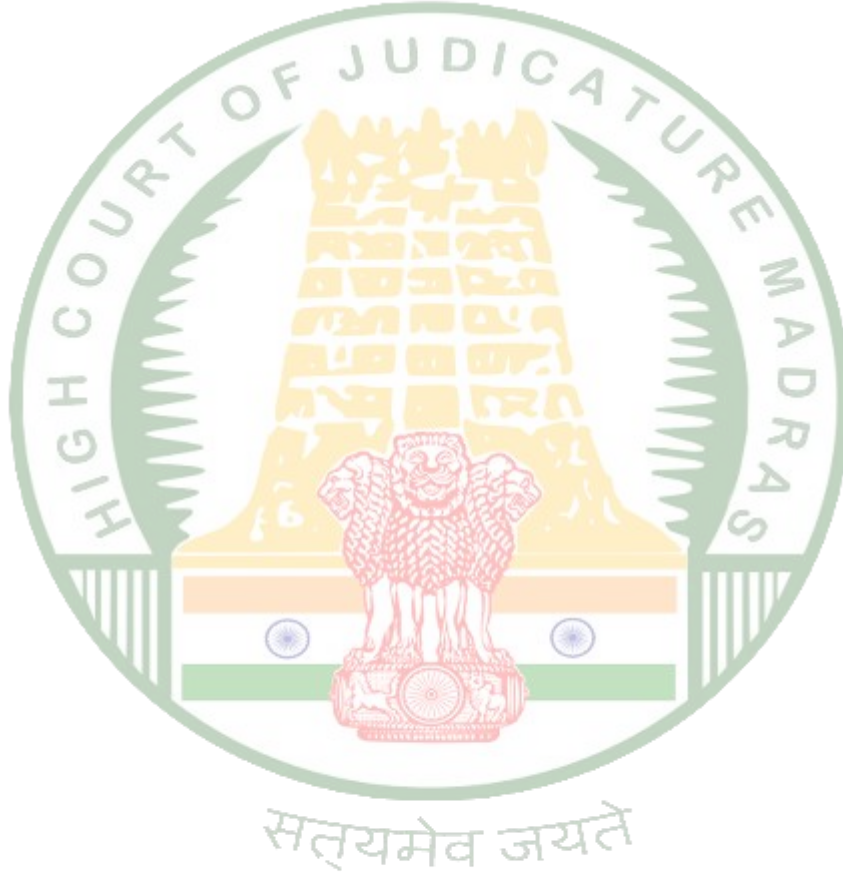
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