

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.17537 of 2020

Mohammed Imran Nissar

... Petitioner

Vs.

State rep. by

Senior Intelligence Officer,
Directorate of Revenue Intelligence,
27, G.N.Chetty Road, T.Nagar,
Chennai-600 017.

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C.,
praying to enlarge the petitioner on bail pending investigation in
R.R.No.18 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Vinodh Kumar

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor (DRI Cases)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 16.09.2020 for the offences punishable under Section 135 of the Customs Act, 1962 in R.R.No.18 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the officers of Directorate of Revenue Intelligence, Chennai Zonal Unit (DRI-CZU), received specific intelligence that a chennai based gold smuggling gang is indulging in smuggling of gold from Dubai, Malaysia, Sri Lanka and other countries through Chennai Airport using the carriers and that the said gang has been smuggling the gold with the connivance of officers of customs Viz., E.V.Rajan and Shri Vikas both Air Custom Officers working in Chennai Airport who had be facilitating the clearance and that one Shri Sathish of Kolathur, Chennai, one of the coordinators of the said gang has been contacting the said E.V.Rajan and Vikas and sending the photographs of the passengers received in their mobile phone (via WhatsApp) and that E.v.Rajan and Vikas would be clearing the said passengers carrying smuggled gold without examining them, for monetary consideration and

they have attempted to facilitate clearance of 18 passengers coming by flights from Malaysia, Dubai. Based on intelligence and upon interception of said passengers 12.69 K.G of Gold valued at Rs. 5,44 Crore was seized. During the Course of further enquiry, the officers of DRI-CZU searched the premises of Sathish Kumar, an Ex-Employee of Chennai Customs, who Acted as a Co-ordinator between the said 18 passengers and the said Customs Officers and recovered INR.12.80 Lakh from his possession. As a follow up, search was conducted at the residential premise of E.V.Rajan and Vikas Sharma and an INR of Rs.80 Lakh and Rs.3.79 lakh was found and seized respectively. In Connection with the seizure voluntary statements were recorded from twenty persons and they were arrested on 20.02.2020, 21.02.2020 and 06.03.2020 by the complainant Department under the Provisions of the Customs Act 1962 for their involvement in the smuggling of 12693 grams of foreign origin gold valued at Rs.5,44,69,525/- concealed in their premises and the cash received for the facilitation were recovered from their residential premises. In the Course of investigation, the petitioner had been arrested by Mangalore Regional Unit of Directorate of Revenue Intelligence in connection with seizure of 4995 grams of gold on 13.01.2020 from Mangalore Air Cargo complex and later based on his voluntary statement dated 10.09.2020 recorded under Section 108 of the Customs Act, 1982 the petitioner had admitted his involvement in the seizure of 12693 grams of gold at Chennai Airport on 10.09.2020. Hence the compliant.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner earlier has been granted bail by the Mangalore Court. Whileso the respondent had requested the Mangalore Regional Unit of DRI to serve the summon on the petitioner to appear before the Chennai Zonal Unit of DRI. He further submitted that the petitioner appeared before the respondent police on 19.09.2020 and thereafter was appearing before the respondent regularly for enquiry, later based on an alleged confession statement stated to be recorded from the petitioner he has been implicated in this case. He further submitted that the other accused who were arrested have been released on bail. He would further submit that the petitioner without prejudice to his contention is ready to deposit an amount of Rs.5,00,000/- to the credit of R.R.No.18 of 2020. Therefore, he prays for grant of anticipatory bail to the petitioner.

4. The learned Special Public Prosecutor would submit that the petitioner along with other accused persons indulged in smuggling of gold from Dubai, Malaysia, Sri Lanka and other countries through Chennai Airport using the carriers, that the said gang has been have been smuggling the gold with the connivance of officers of customs Viz.,E.V.Rajan and Vikas both Air Custom Officers working in Chennai Airport who had been facilitating the clearance and that one Shri Sathish of Kolathur, Chennai, one of the coordinators of the said gang has been contacting the said E.V.Rajan and Vikas and sending the photographs of the passengers received in their mobile phone (via WhatsApp) and that E.V.Rajan and Vikas would be clearing the said passengers carrying smuggled gold without examining them. He further

submitted that the the statement has been recored from the petitioner under section 108 of the Customs Act, 1982, wherein the petitioner had admitted to his involvement. He further submitted that investigation is still pending. Hence, he vehemently opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and circumstance of this case and also made by the submissions of the learned counsels and also considering the period of incarceration undergone by the petitioner from 16.09.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) Accordingly, the Petitioner is ordered to be released on bail on condition to execute a bond for Rs.10,000/- (Rupees ten thousand only), with two sureties each for a like sum to the satisfaction of the learned Additional Chief Metropolitan Magistrate (E.O-II), Egmore, Chennai, in which the Petitioner has been confined and thereafter on his release;

[b] the petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only), to the credit of R.R.No.18 of 2020, before the concerned Magistrate.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent everyday at 10.30 a.m., until further orders.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioner in accordance with law as if the conditions have been imposed and the Petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
10/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE (E.O.II),
EGMORE, CHENNAI-8.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB-JAIL, SAIDAPET.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SENIOR INTELLIGENCE OFFICER
DIRECTORATE OF REVENUE INTELLIGENCE,
27, G.N.CHETTY ROAD,
T.NAGAR, CHENNAI-600 017.

+1 CC to M/S.G.VINODH KUMAR Advocate on payment of necessary charges SR.No.7512

WEB COPY

CRL OP.17537/2020

Date :10/11/2020

cs 11/11/2020