

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

CRM-M-42688-2016(O&M)

Date of decision:- 10.2.2020

Raghav Aggarwal

...Petitioner

Versus

Inspector of Customs and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr.Deepak Garg, Advocate
for the petitioner.

Mr.Sourabh Goel, Sr.Standing counsel
for respondent No.1 assisted by Sh.Suresh Kumar Mishra,
Superintendent, GST, Ludhiana.

Rana Harjasdeep Singh, DAG, Punjab.

H.S. MADAAN, J.

This petition has been filed for the grant of regular bail to the petitioner – Raghav Aggarwal, an accused in a complaint bearing No.COMA/593/2015 titled as “State through Customs Inspector Versus Saurabh Saini and others”, under Sections 132 and 135 of the Customs Act, 1962.

Briefly stated, the facts of the case are that Inspector of Customs, Department of Revenue, Ministry of Finance, Customs (Preventive) Commissionerate, Land Customs Station, Rail Cargo, Amritsar had brought a complaint under Sections 132 and 135 of the

Customs Act, 1962 against eight accused including the present petitioner – Raghav Aggarwal.

In nutshell the case of the complainant is that in the month of July, 2013, the custom officers found that some TR-6 challans submitted as an evidence of payment of customs duty at the time of clearance of imported goods were of suspicious nature, as such the matter was taken up with PNB, Amritsar, which reported that no payment had been received in the bank against those challans and the challans were not genuine. In that way, a total number of 117 fake TR-6 challans, which had been presented to the customs for taking the delivery of imported goods from Pakistan involving custom duty amounting of Rs.1,46,63,546 were found to be fake and the accused had presented those fake TR-6 challans to the custom department as an evidence of payment of custom duty to get the clearance of the goods imported from Pakistan without payment of custom duty. The involvement of all the accused including that of petitioner Raghav Aggarwal was found to be there in the scam. The matter was reported to the police. FIR No.237 dated 16.7.2015 for the offences under Sections 419, 420, 464, 465, 467, 468, 471 and 120-B IPC etc. was registered with Police Station Civil Lines, Amritsar. A separate complaint under Sections 132 and 135 of the Customs Act, 1962 was filed in the Court. Accused had been arrested. He had moved an application for regular bail in Court of Sessions at Amritsar but was unsuccessful as the same was dismissed vide order dated 29.10.2016 passed by learned Additional Sessions Judge, Amritsar, as such, he has approached this Court for grant of the similar relief.

Notice of the petition was given to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has contended that petitioner has since been granted pre-arrest bail in the State case by a Co-ordinate Bench of this Court while disposing of CRM-M-38560-2015(O&M) vide order dated 9.8.2016, copy of which is Annexure P-1. Furthermore, in the criminal complaint in question, his co-accused, namely, Varun Mahajan, Saurabh Saini and Pawan Kumar had already been granted regular bail vide order dated 2.3.2015 and in this case interim bail has been granted to the petitioner vide order dated 5.4.2017. The petitioner has not misused the concession of bail and he is ready to face the trial. Therefore, regular bail be granted to the petitioner.

Learned counsel for the complainant has opposed the request stating the keeping in view the huge amount of tax evasion and role played by the petitioner in the scam, he does not deserve concession of regular bail.

Nevertheless considering the facts and circumstances of the case, I find that the guilt of the petitioner/accused shall be determined during the trial. The completion of trial in the complaint case is likely to take considerable time. The detention of petitioner/accused during that period shall not serve any useful purpose more particularly when several of his co-accused have been granted concession of bail. Similarly in the connected FIR case, he has been granted pre-arrest bail. There is nothing

on record to show that the petitioner has got past criminal antecedents or that he is a hardened criminal. Therefore, without touching merits of the case, I am of the view that it would be in fitness of things and in the interest of justice, if the present petition is accepted.

Accordingly, the petition is allowed. The interim bail granted to the petitioner vide order dated 5.4.2017 is made absolute, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

It is clarified here that nothing discussed above be taken as any opinion on the merits of the case.

10.2.2020
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No