

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42588 of 2021

Arising Out of PS. Case No.-17 Year-2021 Thana- D.R.I District- Patna

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1. VIKRAM ARJUN MISAL Son of Shri Arjun Baburav Misal Resident of Somewadi Road, Stand Javal, Post- Pachegaon(Khurd), P.S.- Sangola, District- Solapur, Maharashtra- 413307.
 2. Navnath Shivaji Suryawanshi Son of Late Shivaji Pandurang Suryawanshi Resident of Chavadi Parishar, Post- Karanje, P.S/ Taluka- Khanapur, District- Sangli, Maharashtra- 416312

... .. Petitioners

Versus

1. Union of India through The Deputy/ Assistant Director, Directorate of Revenue Intelligence, Patna Regional Unit, Patna, Malaynil, Buddha Colony, Patna-800001.
2. The Senior Intelligence Officer, Directorate of Revenue Intelligence, Patna Regional Unit, Patna. Malaynil, Buddha Colony, Patna- 800001.
3. The Intelligence Officer, Directorate of Revenue Intelligence, Patna Regional Unit, Patna Malaynil, Buddha Colony, Patna-800001

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar, Sr. Advocate Mr. Amit Pandey, Advocate
For Union of India	:	Mr. Dr. K.N. Singh, A.D.S.G Mr. Anshuman Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 16-08-2021 Heard the parties in virtual Court proceeding.

The petitioners are languishing in custody for the offence punishable under Section 135(1) (b) of the Customs Act, 1962.

The prosecution case is that the petitioners were apprehended along with smuggled gold measuring 5999.500 grams worth Rs. 2,96,97,525/- while they were travelling on



Dibrugarh-New Delhi Rajdhani Express. It was suspected that the gold was smuggled via Myanmar, as such, the petitioners committed offence under Section 135(1) (b) of the Customs Act.

Submission on behalf of the petitioners is that the petitioners have got no criminal antecedent. They are in custody since 09.02.2021. Investigation of the case is already complete. Further submission is that whole purpose of the Act is to prevent smuggling of gold just to defraud the public exchequer by not paying duties. Moreover, in the case of **Om Prakash vs. Union of India** reported in **2011 (272) E.L.T. 321 (S.C.)**, the Hon'ble Apex Court says that "the offence under Section 135 of the Gold Control Act is bailable one."

Learned senior counsel Mr. Dr. K.N. Singh, appearing for Union of India, opposed the prayer for bail on the ground that the judgment aforesaid is not applicable as after the aforesaid judgment, in the year 2012 there was amendment in the Customs Act whereby the offence was made cognizable by replacing the same from non-cognizable one. Moreover, the minimum prescribed punishment is of one year which may extend up to seven years.

Considering the nature of allegation and completion of investigation as well as undertaking of the petitioners that



they would fully cooperate with the trial, let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Directorate of Revenue Intelligence (DRI), Regional Unit, Patna, Unit Case No. 17/2020-21 dated 09.02.2021 registered as Special Case No. 26(o) of 2021, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The petitioners shall fully cooperate with the trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioners.

(c) The petitioners shall not leave the country without permission of the trial Court.

(Birendra Kumar, J)

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