

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1593 OF 2021**

Abdul Rab Zamane ... Applicant

V/s.

The Union of India and Anr. ... Respondents

Mr. Sagar Kasar i/b. Mr. Pradeep M. Patil, Advocate for the Applicant.

Mr. Jitendra B. Mishra a/w Mr. Dhananjay B. Deshmukh, Advocate for the Respondent No.1 - State.

Mr. K.V. Saste, APP for Respondent – State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 3rd MAY 2021.

P.C. : Through Video Conferencing.

1. Heard the learned counsel for the applicant and the learned APP for the Respondent – State.

2. This is an application under section 439 of code of Criminal Procedure, 1973. The applicant is arrested on 11th March 2021 in Remand Application No.4 of 2021 and is being prosecuted for offences punishable under section 135(1)(a) and (b) and section 135(1)(i)(A) of the Customs Act, 1962.

3. It is the case of the prosecution that on 7th December 2021 one Mr. Zuhair Zaheed Penkar was apprehended at the International Airport, Pune by the Customs Department. He was alleged to be carrying gold weighing 1973 grams. The gold was valued at Rs.74,41,203/- initially. It is alleged that the statement of Mr. Penkar was recorded. According to him, gold belonged to one Mr. Mohamed Farhan. In the statement of Mr. Mohamed Farhan Mr. Penkar and Mr. Amin it had transpired that the present applicant had also smuggled gold weighing 4 TT approximately valued at Rs.20 Lakhs. The statement of the applicant was also recorded by the Customs Department.

4. In the course of investigation, it had transpired that the present applicant is also a member of the same cartel who is involved in smuggling gold into India. According to the learned counsel Mr. Mishra, appearing for the Respondent No.1, the applicant was not apprehended by the Customs Department actually carrying gold but his involvement had transpired in the course of investigation on the basis of the whatsapp messages. The learned counsel for the applicant vehemently submits that the co-accused Mr. Mohamed Farhan, Amin Ayub Khan Deshmukh and Zuhair Penkar have been enlarged on bail vide order dated 19th

April 2021 by this Court. By virtue of doctrine of parity, the applicant also deserves to be enlarged on bail by imposing certain terms. Hence, the following order:-

ORDER

- (i) Application is allowed;
- (ii) Applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs.50,000/- and one or more solvent sureties in the like amount;
- (iii) Applicant be enlarged on provisional cash bail for a period of 8 weeks within which he shall furnish solvent sureties;
- (iv) Applicant shall surrender his passport to the Superintendent of Customs (AIU), Pune within 1 week from the date of his release;
- (v) Applicant shall report to the office of the Superintendent of Customs, Air Intelligence Unit, Pune on 2nd and 4th Saturday of each month till 30th July 2021 and the applicant shall not leave the State of Maharashtra without prior permission of the Court;
- (vi) Application is disposed of on above terms.

(SMT. SADHANA S. JADHAV, J)