

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3188 of 2021

S.Dilip Francis

... Petitioner

Vs.

Senior Intelligence Officer,
Directorate of Revenue Intelligence,
D/o Revenue, Ministry of Finance,
Government of India, Chennai Zonal Unit,
27, G.N. Chetty Road, T.Nagar, Chennai-600 027.
(F. No.DRI/CEZU/VIII/ENQ.01/
INT-40/2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in F. No.DRI/CEZU/VIII/ENQ.01/INT-40/2019 on the file of respondent police.

For Petitioner : Mr.B.Sathish Sundar

For Respondent : M/S N.P.KUMAR, SPECIAL PUBLIC PROSECUTOR
FOR DRI CASES

O R D E R

(The case has been heard through video conference)

The petitioner is a sole accused. The petitioner, who was arrested and remanded to judicial custody on 19.01.2021 for the offence punishable under Sections 132 and 135 of Customs Act, 1962, in F.No.DRI/CEZU/VIII/ENQ.01/INT-40/2019 on the file of respondent police, seeks bail.

2. The case of the prosecution is that on a specific information that the red sanders has been smuggled by one M/s. Preethi Granite Exports of Mysore, the respondent herein conducted a detailed examination and found that 19.45 mts. of red sander have been concealed, which is prohibited for export along with declared goods and the value of the goods is Rs.4.18 crore. The Investigation reveals that one Bhaskaran @ Chitty Bhaskar, with the help of this petitioner has exported the red sanders as granite slabs. Thereafter, the petitioner was arrested and he has voluntarily given a statement that he helped the above said Bhaskaran in replacing the declared cargo with red sander, and he had coordinated in various other shipments for exporting red sanders on behalf of Bhaskaran. Hence, a criminal case has been registered against the petitioner, he was arrested and remanded to judicial custody on 19.01.2021. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioner would submit that the only allegation against the petitioner is that he has helped the main accused one Bhaskaran in replacing the declared cargo with red sander, apart from that, there is no allegation against him and he has not involved in any of offence as alleged in the complaint. He would submit that he is an innocent person and he is no way connected with the offence. He would also submit that the investigation is almost completed and the main accused has been arrested by the Andhra Pradesh police and he is in jail from 19.01.2021. So far as other persons involved in this case, a show cause notice was issued by the customs authorities and he is also ready and willing to appear for adjudication. Hence, he prayed to grant bail to the petitioner.

4. The respondent has filed a detailed counter stating that this petitioner has helped the other main accused viz., Bhaskaran in exporting the red sander, which is a prohibited item for export. The value of smuggled articles worth about Rs.4.18 crores and now, the investigation is also revealed that the petitioner has involved in similar type of offence and the investigation is yet to be completed. Hence, he opposed to grant bail to the petitioner.

5. Mr.N.P.Kumar, learned Special Public Prosecutor after reiterating the averments made in the counter affidavit strongly opposed the petition on the ground that now the main accused Bhaskaran was arrested and the petitioner is actively involved in the smuggling. He would submit that the petitioner has helped the said Bhaskaran in replacing the declared goods in the place of red sanders. Now, the investigation is still pending.

6. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Special Public Prosecutor appearing for respondent and perused the records.

7. Taking into consideration of the fact that, the only allegation is that he has only helped the main accused Bhaskaran in replacing the goods and admittedly, only the Bhaskaran is said to have exported the red sanders illegally. The learned Special Public Prosecutor has also submitted that the show cause notice was also issued to the other accused and adjudication is pending. The petitioner is also ready and willing to appear for adjudication of case. Considering the facts and circumstances and also considering the fact that the period of incarceration suffered by the petitioner from 19.01.2021, 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 a sum of 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 (EO-II), Egmore, Chennai, and on further conditions that:

(b) 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;

(c) the petitioner, after his release from prison, report before the respondent at 10.30 a.m. until further orders ;

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

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

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

(g) 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];

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

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

-sd/-

05/03/2021

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 (EO-II),
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 SENIOR INTELLIGENCE OFFICE
DIRECTORATE OF REVENUE INTELLIGENCE, D/O.
REVENUE, MINISTRY OF FINANCE, GOVERNMENT OF
INDIA, CHENNAI ZONAL UNIT, 27, GN CHETTY
ROAD, T.NAGAR, CHENNAI

<https://hcservices.ecourts.gov.in/hcservices/>

5 THE OFFICER INCHARGE,
SUB JAIL, SAIDAPET, CHENNAI

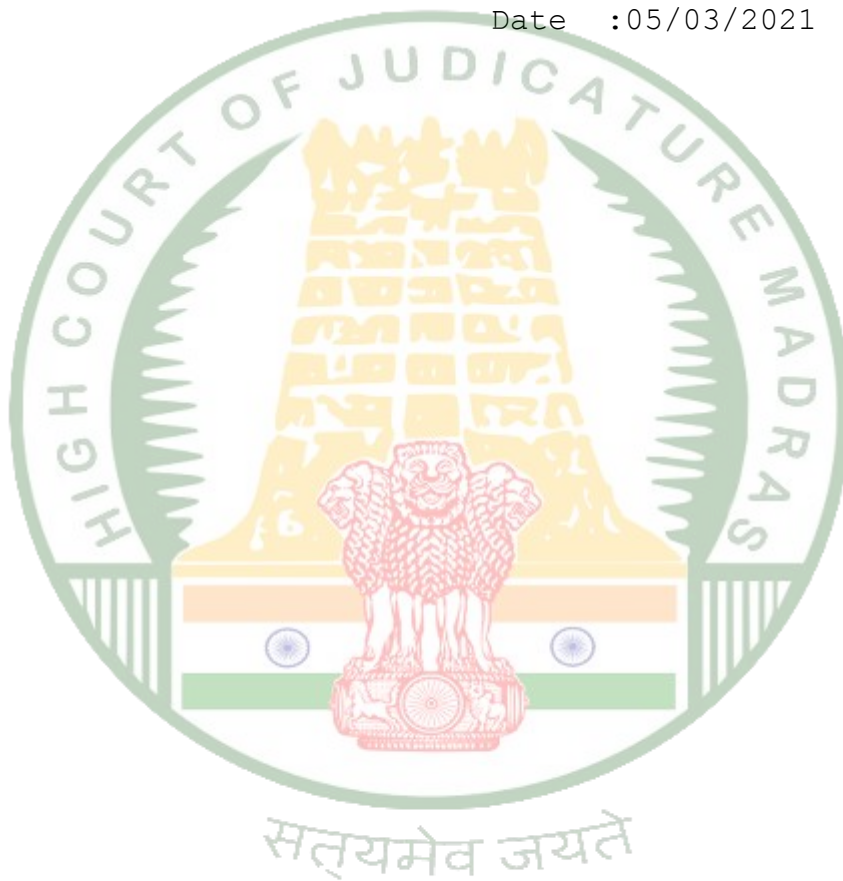
6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

CC to M/S.B.SATHISH SUNDAR Advocate on payment of necessary
charges Sr.2773

CRL OP.3188/2021

Date :05/03/2021

RVR 08/03/2021



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