

20.12.2022

Item No.3

Ct.No.34

dc.

Allowed

C.R.M. (SB) 291 of 2022

In Re : An Application for bail under Section 439 of the Code of Criminal Procedure filed in connection with C.R. Case No. 174/2022 arising out of Customs Seizure Case No. 01/IMP/CL/CUS/HILI/LCS/2022-23 dated 28.09.2022 under Section 135(1)(b) of the Customs Act, 1962.

And

In Re : **Monto Bhadro**

... Petitioner.

Mr. Anirban Guhathakurta,
Mr. Sanat Kumar Das,
Mr. Sujan Chatterjee

... For the Petitioner.

Mr. Bhaskar Prosad Banerjee,
Mr. Tapan Bhanja

... For the Customs Authority.

A copy of the report dated 16.12.2022 submitted by Mr. Banerjee, learned advocate appearing for the customs authority be kept on record.

The petitioner is in custody for about 83 days. The learned advocate appearing for the petitioner submits that the accused in connection with the instant case has already been released on bail. The petitioner has cooperated with the investigating agency and complaint has been filed by the customs authority before the jurisdictional court.

Mr. Banerjee, learned advocate for the customs authority, on the other hand, opposes the prayer of the petitioner and submits that smuggle gold amounting to Rs.1.49 crore was seized from the possession of the present

petitioner. The petitioner is not cooperating with the investigating agency and as such, the confiscation proceedings cannot progress. It has been submitted that all efforts would be taken by the prosecution to conclude the trial at the earliest.

I have assessed the submissions advanced by the learned advocates appearing for the parties. I find that the complaint has already been filed before the jurisdictional court, although evidence has not yet commenced. The foundation of the procedure in such cases being tried in a manner as warrant cases otherwise than on a police report, until and unless the evidence is placed by the customs authority before the learned court, charge cannot be framed. Having regard to the period of detention which has already been undergone, I am of the opinion that further detention of the present petitioner is unwarranted in the facts and circumstances of the case. As such, the prayer for bail of the petitioner is **allowed**.

Accordingly, the petitioner viz., **Monto Bhadro** shall be released on bail upon furnishing two local sureties of like amount each to the satisfaction of the learned Chief Judicial Magistrate, Balurghat.

If on bail, the petitioner shall not leave the jurisdiction of Balurghat Police Station without the leave of the learned Chief Judicial Magistrate, Balurghat. The petitioner being a Bangladesh National, should physically appear before the learned trial court as and when the date is fixed. The

petitioner shall not be allowed to leave India till the trial of the case is concluded.

The authorities responsible for extending the VISA, if any, would automatically on an application made by the petitioner, extend the period of VISA.

The learned Chief Judicial Magistrate, Balurghat or any other Judicial Magistrate in seisin of the case being C.R. Case No. 174/2022 would fix for the purposes of this case one day in every three days so that trial of the case can be concluded within a limited period of time.

The application for bail, being CRM (SB) 291 of 2022, is, thus, disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Tirthankar Ghosh, J.)