Crl.O.P.No.15213 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Section 132 of the Customs Act, 1962, in R.R.No.06 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the enormous loss suffered by the exchequer by the malafide acts of the petitioner who was in ca-hoots with one Sunil Sharma, and Dhruv Sharma. The petitioner had created, controlled, monitored and supervised three firms viz., M/s. ND Jewellers, Proprietor Narendra Sharma i.e., the petitioner herein, M/s. Balaji Jewellers, Proprietor Sunil Sharma and M/s.Dhruv Jewellers, Proprietor Dhruv Sharma. He played a vital role similar to the one designed by one Deepak G Siroya and his actions were in identical manner so much so that the petitioner procured duty free gold bullion bars, shown to have sent the same to Kolkata for manufacture of gold bangles and exported. However, the procured gold was sold in cash and paper transaction have been created. The copper bangles containing 15%

to 20% gold were purchased from Chennai and exported in the guise of 22 carat jewellery to camouflage his wrongdoings. Hence the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an exporter of gold jewellery and Proprietor of M/s.ND Jewellery. As per the allegation, the petitioner exported fake jewellery. She further submitted that the petitioner is noway connected with the alleged export done by the other companies. Even according to the prosecution, the petitioner neither a Director nor partner of the M/s. Sunil Jewellers, M/s.Balaji Jewellers, and M/s.Dhruv Jewellers. In fact, if the petitioner is issued summon under Section 41(A) of Cr.P.C., he is ready and willing to appear before the respondent for enquiry. Hence, she prayed to grant anticipatory bail to the petitioner.

4. The learned Special Public Prosecutor (DRI cases) filed counter and submitted that based on the specific information that fake jewellery made of copper/brass coated with gold covering was being exported by one M/s. Sunil Jewellery, by declaring the said cargo as 22 carat plan

gold jewellery. When the consignment was stopped by the Customs, it was found that the gold covered copper bangles had been attempted to be smuggled out of India by mis-declaring the same as 22 carat plain gold jewellery. The exporter was intended to export 10.8 Kg of fake jewellery with declared valued of Rs.4,56,39,360/- which was mis-declared in terms of percentage of gold contained therein and the value thereof. The consignment was seized under the provisions of the Customs Act, 1962 and the fake jewellery of 10.8 kg meant for export was nothing but an obligation required to be fulfilled for having procured duty free gold of quantity of 10.4 kg of gold bullion valued at Rs.5.09 crore for manufacture of gold jewellery. During the investigation it came to light that the petitioner and other accused were involved in the same modus operandi. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Even according to the case of the prosecution, there is no allegations as against M/s. ND Jewellery owned by the petitioner herein. The details given by the respondent about the data of exports made by

the petitioner in the name of Laksh Jewellery, Kanak Gold & Diamond Jewellery, in which the petitioner neither Director nor partner of these jewelleries. The apprehension of the prosecutions is that the petitioner is the master mind in the entire transactions and export of covering gold. Considering the above facts and circumstances, this Court feels that the custodial interrogation of the petitioner does not require in this case and hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai, on condition that the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand

dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily twice at 10.30 a.m., and 5.30 p.m., for a period of four weeks and thereafter as and when required for interrogation. The petitioner is also directed to co-operate with the enquiry done by the respondent.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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].**

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

06.07.2022

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