

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION NOS.5237 OF 2022 AND
5212 of 2022****COMMON ORDER:**

These two Criminal Petitions are filed under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking regular bail to the petitioners, who are arrayed as Accused Nos.1 and 2 in HQPOR No.41/2022-CusPrev on the file of Superintendent of Customs (Preventive) Customs Commissionerate, GST Bhavan, Basheerbagh, Hyderabad registered for the offence punishable under Section 135 of the Customs Act, 1962.

2. Heard Sri.Y.Koteswara Rao, learned counsel for the petitioners/Accused Nos.1 and 2 and Sri.B.Narasimha Sarma, learned standing counsel for Central Excise, Customs and Service Tax Department. Perused the record.

3. The case of the Superintendent of Customs is that Accused No.1 arrived from Dubai on 02.06.2022 and on suspicion the Intelligence Wing in the Airport observed the movements of the Accused No.1 who entered into the Covid test room and handed over a plastic bag to Accused No.2 who was working as sample collecting person in the covid test centre in the Airport. It was

found that Accused No.1 had handed over plastic bag containing 2310.88 grams of gold valued at Rs.99,29,828/- and also 1256.4 grams of gold valued at Rs.66.08.664/-. The total value of the gold which was brought by the Accused No.1 and handed over to Accused No.2 is Rs.1,65,38,492/-. The petitioners were arrested and remanded to judicial custody. The alleged acts of smuggling gold is in contravention of Section 77 of the Customs Act, 1962 and also Section 3(2) of Foreign Trade (Development and Regulation) Act, 1992 and liable to be confiscated under Section 111 of the Customs Act. Further they are liable to be prosecuted for the offence under Section 135 of the Customs Act.

4. Learned counsel for the petitioners would submit that, they are in jail since 03.06.2022 and the entire gold is already seized. He further submits that the officials have not sought for any police custody for the purpose of investigation.

5. On the other hand the learned standing counsel appearing for the respondent filed counters stating that the mobile phones have been sent for FSL examination and the quantity seized is huge quantity which valued around 1.65 crores, as such, the said acts of

smuggling gold is violating the customs act and also Foreign Trade Act, therefore, the bail has to be refused to these petitioners.

6. As seen from the record, these petitioners were arrested on 03.06.2022 and no police custody was sought. As per the investigation, the officials have sent the mobile phones to FSL for examination and report is awaited. The petitioners would have no say in the test that would be undertaken by the FSL, for which reason, these petitioners/Accused Nos.1 and 2 can be released on bail.

7. Accordingly, the Criminal Petitions are allowed and the petitioners/Accused Nos.1 and 2 are granted bail subject to the following conditions:

i) The petitioners/Accused Nos.1 and 2 shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) each with two sureties for a like sum each to the satisfaction of Special Judge for Trial of Cases under Economic Offences Act, Hyderabad.

ii) The petitioners/Accused Nos.1 and 2 shall appear before the Superintendent of Customs (Preventive) Customs Commissionerate, GST Bhavan, Basheerbagh, Hyderabad on every Monday between 10.30 AM and 01.00 PM for a period of three (03) months.

iii) The petitioners/Accused Nos.1 and 2 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C.

8. As a sequel thereto, miscellaneous applications, if any pending, shall stand closed.

K.SURENDER, J

Date: 07.07.2022

ns