

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(I) CRM-M-20066-2022 (O&M)

Harish Goyal

.....Petitioner

Versus

Intelligence Officer, Directorate of Revenue Intelligence & another

.....Respondents

(II) CRM-M-18759-2022 (O&M)

Rajesh Goyal

.....Petitioner

Versus

Intelligence Officer, Directorate of Revenue Intelligence & another

.....Respondents

Date of Decision: 01.08.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate, with
Mr. Saurabh Kapoor and Ms. Shivani Kapoor, Advocates,
for the petitioner(s).

Mr. Rajesh Sethi, Senior Standing Counsel with
Mr. Arun Biriwal, Advocate, for the respondents.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of aforesaid two petitions filed on behalf of Harish Goyal and Rajesh Goyal. While petitioner – Harish Goyal seeks grant of anticipatory bail in respect of offences under Sections 135(1)(a), 135(1)(b) read with Section 135 (1)(i)(b) of the Customs Act, 1962

punishable under Section 104 (6)(a) of the Customs Act in DRI F.No.DRI/LDZU/856(INT-3/ENQ-1/2022, petitioner – Rajesh Goyal seeks modification of conditions, as imposed by the trial Court vide order dated 22.03.2022 (Annexure P-1 in CRM-M-18759-2022).

2. A few facts necessary to notice for disposal of the aforesaid two petitions are that both the petitioners, namely, Harish Goyal and Rajesh Goyal are Executive Managers of M/s Shakti Api Foods Private Limited. It is alleged that M/s Shakti Api Foods Private Limited had imported white sugar from foreign country legally on the basis of an advance license issued by the Government and the same was to be exported back after preparing liquid glucose. It is the case of the prosecution that the said company instead of processing the sugar into liquid glucose and exporting it back, diverted the said sugar into open market in contravention of the provisions of Advance License. The Directorate of Revenue Intelligence under the Customs Act, thus, imposed a custom duty assessed to the tune of Rs.16.17 crores.
3. Pursuant to issuance of summons by the Directorate of Revenue Intelligence for the purpose of recording statements of the concerned Managers/Directors etc., petitioner – Rajesh Goyal was arrested.
4. During the course of proceedings on an application for grant of bail pending before the Court of learned Additional Sessions Judge, Ludhiana, petitioner – Rajesh Goyal made a statement, wherein it was undertaken that while half of the amount i.e. Rs.8 crores approximately already stands deposited, the balance amount would be deposited within 2 ½ months. Thus, as per the said undertaking given on 22.03.2022, the balance amount was to be deposited by 06.06.2022. The bail application

was accordingly adjourned to 06.06.2022 and is presently pending for 03.08.2022.

5. However, petitioner – Rajesh Goyal did not pay the balance amount and filed the instant petition i.e. CRM-M-18759-2022 before this Court seeking extension of time as afforded by the trial Court for depositing the balance amount. It was pursuant to the undertaking given by the petitioner – Rajesh Goyal himself, that he had been granted interim bail by the learned Additional Sessions Judge, Ludhiana.
6. In the other petition filed on behalf of Harish Goyal, the petitioner seeks grant of anticipatory bail. Vide order dated 30.05.2022, petitioner – Harish Goyal has been granted interim bail. The said order reads as follows:

“The petitioner seeks grant of anticipatory bail in respect of a case registered for offences under Sections 135(1)(a), 135(1)(b) read with Section 135 (1)(i)(b) of the Customs Act, 1962 punishable under Section 104 (6)(a) of the Customs Act in DRI F.No.DRI/LDZU/856(INT-3/ENQ-1/2022, wherein the allegations are broadly to the effect that an amount of Rs.16.17 crores is due to be recovered from the accused as custom duty.

Learned counsel for the petitioner has submitted that a co-accused namely Rajesh Goyal, who is Director of the company i.e. M/s Shakti Api Foods Private Limited, has already deposited an amount of Rs.9.50 crores and that the petitioner, in order to prove his bonafidies but without prejudice to his rights to defend the case, is willing to deposit an amount of Rs.2 crores with the Custom Department within the month of June, 2022 and another Rs.2 crores in the month of July, 2022.

In view of the aforestated position, the matter is adjourned to 1.8.2022.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join investigation as and when called upon to do so and cooperate

with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

It is, however, clarified that the aforesaid interim bail is being granted subject to the condition that the petitioner honours the offer made before this Court today i.e. regarding deposit of Rs.2 crores within the month of June, 2022 and another Rs.2 crores in the month of July, 2022.”

7. Learned counsel appearing on behalf of the petitioner(s) has today informed that pursuant to the undertaking made before this Court on 30.05.2022 in Harish Goyal's case, an amount of Rs.4 crores stands deposited with the Directorate of Revenue Intelligence and that as on date a total amount of Rs.13.56 crores approximately stands paid out of the total custom duty of Rs.16.17 crores. It has further been submitted by the learned counsel, who is accompanied by petitioner – Rajesh Goyal present in person, that the balance amount of Rs.2.60 crores approximately shall be deposited by 30.11.2022 positively. Learned counsel has lastly submitted that since substantial amount stands already paid and the petitioner(s) also undertake to pay the balance amount by 30.11.2022, both the petitions deserve to be accepted.
8. On the other hand, learned counsel representing the Directorate of Revenue Intelligence has vehemently opposed the petitions on the ground that petitioner – Rajesh Goyal having undertaken before the trial Court to deposit the balance amount within 2 ½ months i.e. by 06.06.2022, but not having deposited the same, has failed to abide by his undertaking and has virtually violated of conditions of grant of interim bail inasmuch as the trial Court had granted interim bail only pursuant to the said undertaking given by petitioner – Rajesh Goyal himself for depositing the balance amount. Learned counsel has further submitted that in any case the petition filed on behalf of petitioner – Rajesh Goyal i.e. CRM-M-18759-

2022 is not maintainable and that the proper course for Rajesh Goyal would have been to move an application for modification before the trial Court itself and not to approach this Court seeking extension of time when the main regular bail application is still pending before the trial Court.

9. I have considered rival submissions addressed before this Court.
10. In nutshell, the dispute pertains to payment of custom duty assessed to the tune of Rs.16.17 crores. On the last date of hearing i.e. 30.05.2022, petitioner – Harish Goyal had been directed to pay an amount of Rs.4 crores, which has already been deposited, making total paid amount as Rs.13.56 crores approximately out of total custom duty to the tune of Rs.16.17 crores. Thus, this Court is of the opinion that a substantial amount already stands paid. In these circumstances, this Court in exercise of inherent powers conferred under Section 482 Cr.P.C. accepts the petition on behalf of petitioner - Rajesh Goyal i.e. CRM-M-18759-2022 and the time afforded by the trial Court for depositing the balance amount out of Rs.16.17 crores is extended upto 30.11.2022. In case, the said amount is not deposited by the said date, the trial Court would be free to pass any order as deemed appropriate in the facts and circumstances of the case. It is made clear that no further application for extension of time shall be entertained by this Court.
11. As far as petitioner Harish Goyal is concerned, having regard to the factual position, as already noticed above regarding deposit of the substantial amount of Rs.13.56 crores approximately, this Court does not deem it to be a case warranting custodial interrogation. The petition filed on behalf of petitioner – Harish Goyal i.e. CRM-M-20066-2022 is

also accepted and the interim directions issued by this Court vide order dated 30.05.2022 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.

12. It is, however, clarified that in case, the balance amount is not paid by 30.11.2022, as undertaken by this petitioner(s), the Directorate of Revenue Intelligence would be at liberty to move for cancellation of bail granted to the petitioners. The Directorate of Revenue Intelligence would also be at liberty to proceed against the accused in accordance with law including issuance of notices etc. The petitioners are directed to cooperate with the Directorate of Revenue Intelligence concerned and to associate with the investigation as may be required and to appear before the authorities concerned as and when directed.
13. A photocopy of this order be placed on the connected file.

01.08.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**