

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 3541 OF 2022

Shri. Nitish Kumar Roy	... Applicant
v/s.	
Union of India and anr.	 Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3542 OF 2022**

Shri. Yadavendra Kumar Roy	... Applicant
v/s.	
Union of India and anr.	 Respondents

Mr. Sujay Kantawala a/w. Mr. Anupam Dighe, Ms. Chandni Tanna and Mr. Prathamesh Chavan i/b. India Law Alliance for the Applicants.

Mr. Advait Sethna a/w. Ms. Ruju Thakker, Mr. Ranjan M. and Mr. Sandeep Raman for the Respondent – DRI.
Mr. S.H. Yadav, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 08th JUNE, 2023.

P. C. :-

. These are the Applications under section 438 of Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in FNo. DRI/MZU/D/INT-90/2020/(Part-1), FNo.S/12-Gen-Misc-226/2021-22/DBK/JNCH by DRI, Mumbai Zonal Unit, Mumbai for offences punishable under section 132 and 135 of the Customs Act, 1962.

2. Heard learned counsel for the Applicants and learned counsel for the Respondent – DRI. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The Applicants are the exporters of carpets. The allegations against the Applicants are that they had overvalued the goods which were being exported and had claimed higher rate of duty drawback and other incentives.

4. Learned counsel for the Applicants has placed on record order dated 13/03/2023 passed by the Additional Commissioner of Customs, NS-II, JNCH, Nhava Sheva wherein the Adjudicating Authority has held that the value declared in 14 shipping bills appears to be the correct transaction value in terms of section 14(1) of the Customs Act, 1962 whereas the claim in respect of 12 shipping bills has been reduced.

5. By order dated 02/05/2022 passed in Original Side Writ Petition (L) No.13380/2022, the Applicants were granted interim protection. The question whether the other bills reflect correct value or have been overvalued, is yet to be adjudicated. At this stage, there is no material

on record to indicate that the Applicants had availed higher rate of duty drawback on the shipping bills. The Applicants have appeared before the Authority and the statement of the Applicants has been recorded on various dates. Considering the nature of accusations, in my considered view, this would not be a case for custodial interrogation. Hence, the Applications are allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicants - Shri. Nitish Kumar Roy and Shri. Yadavendra Kumar Roy in connection with F.No. DRI/MZU/D/INT-90/2020/(Part-1), F.No.S/12-Gen-Misc-226/2021-22/DBK/JNCH by DRI, Mumbai Zonal Unit, Mumbai, they shall be released on bail on furnishing bail bonds in the sum of Rs.50,000/- each with one or two sureties in the like amount ;

(b) The Applicants shall co-operate with the investigation and shall report to the concerned Investigating Officer/DRI as and when required ;

(c) The Applicants shall keep the concerned Investigating

Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

6. Both Applications stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)