



WEB COPY



Crl.O.P.No.16316 of 2023

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G.CHANDRASEKHARAN, J.

The petitioner, who was arrested and remanded to judicial custody on 16.06.2023 for the offences punishable under Sections 112 and 135 of the Customs Act, 1962, in R.R.No.21 of 2023 in F.No.DRI/CZU/VIII/48/ENQ-01/INT-25/2023 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner is an accused in R.R.No.21 of 2023 in F.No.DRI/CZU/VIII/48/ENQ-01/INT-25/2023 registered under Sections 112 and 135 of the Customs Act, 1962. The allegations against the petitioner are that he had concealed the gold seized in paste form. He is not the one who had procured the gold or the beneficiary or the one who had illegally smuggled the gold to India.

3. As per counter affidavit, one Shri Razeen and Shri J.K. are the real beneficiaries. The gold in the form of paste said to have been handed over to him by one Shri Subramani and Shri Sathish



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Kumar. He further submitted that under Section 104 (6), if the petitioner evades payment of duty exceeding Rs.50,00,000/-, he is liable for arrest, otherwise he cannot be arrested. The contraband seized in this case is only to the tune of Rs.1,60,70,652/- and the duty comes to only Rs.16,00,000/-. Therefore, arrest of the petitioner in this case is illegal. He is in judicial custody from 16.06.2023. Thus, he prays for grant of bail.

4. In response, learned Special Public Prosecutor submitted that there are totally six accused in this case. So far three accused had been arrested and three are yet to be arrested. Investigation in this case is pending. *Modus-operandi* of the accused involved in this case is that they have illegally smuggled the gold in paste form, concealed in the rectum and handed over to the beneficiaries.

5. The case in hand is that the gold in paste form which was illegally smuggled was handed over to the petitioner for a commission of Rs.63,50,500/-. The money and contraband were seized from him. He further submitted that the petitioner cannot



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claim that he cannot be arrested, for the reason that the value of gold seized was Rs.1,60,70,652/-. In the said circumstances, he opposes this petition.

6. Considered the rival submissions and perused the records.

7. It is seen from the submissions made and upon perusal of the records that, there are totally six accused in this case. Along with the petitioner, Shri Subramani and Shri Sathish Kumar were arrested. The persons who are the actual beneficiaries Viz., Shri Razeem and Shri.J.K., are not arrested. The investigation in this case is still pending. The specific allegations made against the petitioner is that petitioner is a conduit in smuggling, for transporting the smuggled goods to the beneficiaries.

8. Considering the fact that investigation is still pending and that the beneficiaries are yet to be arrested, this Court is not inclined to grant bail to the petitioner.



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9. Accordingly, this Criminal Original Petition is
dismissed.

28.07.2023

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