



Crl.O.P.Nos.27338 & 27339 of 2023

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C.V.KARTHIKEYAN,J.

The petitioner in both petitions seek bail. A1 has filed Crl.O.P.No.27338 of 2023 and A2 has filed Crl.O.P.No.27339 of 2023, both in R.R.No.41 of 2023, registered by the respondent for the offence under Section 135 of Customs Act, 1962. Both the petitioners claimed that they are innocent of the offence alleged and claimed indulgence from this Court.

2.It is the case of the prosecution that A1, had prior information about passengers who arrived at International Airport at Chennai carrying gold and had passed on that particular information regarding the details of the passengers to the 2nd accused. The 2nd accused incidentally was working as a Multi Tasking Staff with a private entity namely Travel Food Services with right to enter into the Airport premises.

3.In the counter affidavit, the details had been given as to how the 2nd accused will be able to identify that particular passenger carrying gold. The gold would be then taken over by the 2nd accused with intention to hand them over to



two other named individual and but till such time, he had kept the gold in his house. On specific information, the respondent had searched the house of the 2nd accused and had recovered nearly about 4.5 kgs of gold worth about Rs.2,69,36,875/- and additionally cash of Rs.13,26,000/-.

4.It is the contention of the learned counsel for the petitioner in both the CrI.O.Ps., that since the gold and the cash had been recovered, the entire investigation has come to an end and what remains is only recording of statements and the confiscation of the seized materials and adjudication process. It is also stated that taking into consideration the period of incarceration and the fact that no further investigation is required to be done by the respondent, the petitioners are entitled for bail.

5.Counter affidavits had been filed in both the petitions by the respondent and the learned Special Public Prosecutor seriously objected to grant bail. The learned Special Public Prosecutor also pointed out that in the counter affidavit, the details had been given as to how the entire operation took place and how the 1st accused had obtained prior information of the passengers, who came into



International Airport at Chennai, carrying smuggled gold and how they were identified by the 2nd accused and how the gold was transferred thereafter to the 2nd accused.

6.It was also specifically stated that the names of two other persons had come up during the course of investigation from the statements recorded from the petitioner herein, namely Ashique and Kareem but the petitioners have not given any further details about the said two individuals and therefore, further investigation is required and detention of the petitioners is essential.

7.I have carefully considered the arguments advanced.

8.The 1st limb of arguments advanced by the learned counsel for the petitioners is that the seizure, which can be termed as town seizure was in the residence of the 2nd accused and not within the Airport premises, which comes under Customs area. It is therefore, stated that it is highly doubtful whether this seizure would attract offence under Section 123 of Customs Act and therefore, stated that on this one ground itself, the petitioners are entitled for bail.



9.This particular argument of the learned counsel for the petitioners has to be straight away rejected.

10.The residence of the 2nd accused is only a place of convenience for keeping the gold which had been smuggled into this country and the place can be anything. The actual act of smuggling and the actual act of transferring of the gold from the person who brought it, to the 2nd accused, took place within the customs area, within the International Airport area. Thereafter, taking the gold away from there and secreting it away and keeping it in a place, which is to the exclusive knowledge of the 2nd accused, will not entitle for him for any benefit to be granted. It is the place where the actual transfer of smuggled articles took place which will have to be taken note of and that place was within the International Airport at Chennai. The lame arguments advanced is rejected by me.

11.The 2nd limb of arguments advanced by the learned counsel for the petitioners is that no further investigation is required and only adjudication process will have to be now undertaken. That argument again is rejected by me.



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12.The names of two specific individual had come up during the course of investigation. The details of those two individual are to the exclusive knowledge of these two petitioners. If they do not co-operate during the course of investigation, they will have to suffer incarceration. The network behind is large and the smuggling of gold from various passengers with specific information being given to the 1st accused and specific information passed over to the 2nd accused would only indicate that these two petitioners are part of a larger network, for whom the respondent will now have to spread the web to secure. Therefore, investigation still is at nascent stage and the arguments advanced is also rejected.

13.In view of all these factors, I am not inclined to grant bail to the petitioner in both CrI.O.Ps. Accordingly, these Criminal Original Petitions stand dismissed.

08.12.2023

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