



CRL OP(MD). No.19241 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19241 of 2023

Asikahmed,

... Petitioner/ Accused Rank Not Known

Vs

**1. Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Trichy Regional Unit,
No.9c, Bharathidasan Salai,
Cantonment,
Trichy 620001..**

**2. Senior Intelligence Officer,
Directorate of Revenue Intelligence
Tuticorin Regional Unit,
22/14, Celin Garden Roche Colony,
South Beach Road,
Tuticorin 1.**

... Respondents/Complainants

**For Petitioner : Mr.D.Rameshkumar,Advocate.
For Respondents : Mr.C.Arul Vadivel @ Sekar,
Special Public Prosecutor**



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PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

To enlarge the Petitioner/ Accused Rank on Bail in the event of their arrest by the Respondent authority concerned in F.No.DRI/ CZU/ TRY/ VIII/ 48/ENQ-01/INT-13/2023 on the file of the 1st Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 135(1)(A) of Customs Act 1962 r/w. Section 174, 175 of IPC in F.No.DRI/ CZU/ TRY/ VIII/ 48/ENQ-01/INT-13/2023 on the file of the respondent, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner received information on 09.10.2023 that foreign origin gold has been smuggled into India from Srilanka through Thondi Coastal Area by two accused namely Mohammed Irfan and Ajmal Khan in a private vehicle bearing Reg. No. TN 05 BF 9031 to Chennai. The authorities intercepted the vehicle at Samayapuram Toll plaza, Trichy and recovered 755.900 grams of 24 karat gold bars worth about Rs.4,48,82,046/- and the same has been confiscated, hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit that the petitioner is an auto consultant and doing business in buying and



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selling two wheelers and he will co-operate with the respondent for any enquiry and investigation. Hence he seeks anticipatory to the petitioner.

4.The learned Special Public Prosecutor appearing for the respondent submitted that foreign origin gold has been smuggled into India from Srilanka through Thondi Coastal Area by two accused namely Mohammed Irfan and Ajmal Khan in a private vehicle bearing Reg. No. TN 05 BF 9031 to Chennai. The authorities intercepted the vehicle at Samayapuram Toll plaza, Trichy and recovered 755.900 grams of 24 karat gold bars worth about Rs.4,48,82,046/- and the same has been confiscated. He would further submit that the second respondent has sent a summon dated 10.10.2023 under Section 108 of Customs Act to the petitioner to appear before the first respondent for enquiry on 13.10.2023 at 10.30hrs and the summons was issued to the petitioner just to investigate further. Merely summons was issued to the petitioner does not indicate that he is intended to be made an accused. But the petitioner after receiving the summons has not appeared before the first respondent and he is still absconding and filed this petition at a very premature state, hence he objected to grant anticipatory bail to the petitioner.

5. It is not disputed that the petitioner was directed to appear before the first respondent on summons under Section 108 of Customs Act and the respondents have not yet come to conclusion that he has committed the said offence and they have



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called the petitioner only to attend the enquiry. Further the Constitution Bench of Hon'ble Supreme Court in the case of Ramesh Chandra Mehta.vs. State of West Bengal reported in (1969)2 SCR 461 has held that if a person is called up to make a statement before the Custom Authorities cannot be said to be an accused of an offence. It is therefore clear that if a person is called upto make a statement under Section 108 of the Customs Act and summons is issued for the said purpose, he is bound to comply with the such a direction, but instead of appearing before the first respondent the petitioner has filed this petition at a very premature stage. In view of the settled proposition this petition for anticipatory bail is not maintainable and it deserves to be dismissed.

6. In the result,the petition stands dismissed.

sd/-
22/11/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

1 SENIOR INTELLIGENCE OFFICER
DIRECTORATE OF REVENUE INTELLIGENCE,
TRICHY REGIONAL UNIT,
NO.9C, BHARATHIDASAN SALAI,
CANTONMENT, TRICHY 620001.

<https://www.mhc.tn.gov.in/judis>



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- 2 SENIOR INTELLIGENCE OFFICER
DIRECTORATE OF REVENUE INTELLIGENCE
TUTICORIN REGIONAL UNIT,
22/14, CELIN GARDEN ROCHE COLONY,
SOUTH BEACH ROAD,
TUTICORIN 1
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.19241 of 2023
Date :22/11/2023

PKP/DD/SAR- /30.11.2023/ 5P/4C

Madurai Bench of Madras High Court is issuing certified
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