

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

107

CRM-M-48933-2023 (O&M)
Date of decision: 04.10.2023

Rinku Kansal

...Petitioner

Versus

Intelligence Officer, Directorate of Revenue Intelligence

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Deepak Gupta, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

[1] Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in complaint bearing No.COMA-8939-2016 dated 29.08.2016, titled *Intelligence Officer vs. Sahil Gupta & Ors.*, under Sections 132 and 135 of the Customs Act, 1962.

[2] Learned counsel for the petitioner has *inter alia* argued that the allegations against the petitioner is with regard to examination of containers on 03.04.2012 which were covered by shipping bills dated 09.03.2012 and 12.03.2012. It is submitted that at the relevant time by virtue of Section 104(4) of the Customs Act, 1962, all the offences under the Customs Act were non-cognizable. Reliance is placed upon *Om Parkash & Anr. Vs. Union of India & Anr., (2011) 14 SCC 1*, to submit that the provisions of Central Excise Act, 1944 and Customs Act, 1962 have been held to be *para materia* and as such, the offences under the Customs Act, 1962, at the relevant time were held to be bailable. It is

further submitted that Section 104 of the Customs Act was amended vide Finance Act, 2012 w.e.f. 28.05.2012 and in the present case, the said amendment would not be applicable.

[3] On an advance copy of the petition having been served, Mr. Sourabh Goel, Senior Standing Counsel, puts in appearance on behalf of the respondent and submits that *challan* stands presented and petitioner is avoiding to put in appearance before the trial Court; and it is on that count that non-bailable warrants were issued against the petitioner to secure his presence. Moreover, the plea urged before this Court was not raised before the trial Court and as such the petitioner be relegated to the Court of Sessions, at the first instance. He further submits that in case the petitioner chooses to avail of the said remedy, the second bail application would not be opposed on the ground of no change of circumstances or that the contention noticed hereinabove had not been raised in the first bail application.

[4] Learned counsel for the petitioner prays that in view of the submissions advanced by learned counsel for the respondent, he prays for withdrawal of the present petition with liberty to approach the trial Court/ Court of Sessions, in accordance with law.

[5] Dismissed as withdrawn with liberty aforesaid.

October 04, 2023

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(VIKAS SURI)
JUDGE

Whether speaking/reasoned :

Yes / No

Whether Reportable :

Yes / No