

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

ANTICIPATORY BAIL APPLICATION NO.47 OF 2024

Sajid Sageer Inamdar

.... Applicant

versus

Directorate of Revenue Intelligence (DRI)

Mumbai Zonal Unit (MZU), Mumbai & Anr. Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.48 OF 2024**

Maiz Khalil Kazi

.... Applicant

versus

Directorate of Revenue Intelligence (DRI)

Mumbai Zonal Unit (MZU), Mumbai & Anr. Respondents

.....

- Dr. Sujay Kantawala a/w Waqar N. Pathan a/w Avinash Limbola, Advocate for Applicant in both ABAs.
- Mr. Advait M. Sethna (Spl. P. P.) a/w Siddharth Chandrashekhar a/w Rangan Majumdar, Advocate for Respondent No.1 (DRI) in both ABAs.
- Mr. Aashish Satpute, APP for the State/Respondent in both ABAs.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th FEBRUARY, 2024

P.C. :

1. Both these matters are decided by this common order because they arise out of the same subject matter. In both these applications, the Applicants are seeking anticipatory bail in connection with F.No.DRI/MZU/C/INT-57/2023 for commission of offence punishable under sections 132 and 135 of the Customs Act, 1962.
2. Heard Dr. Sujay Kantawala learned counsel for the Applicants, Mr. Advait M. Sethna, Special P. P. for DRI and Mr. Aashish Satpute, learned APP for the State.
3. The story of the investigating agency as stated in the remand report dated 15/05/2023 is that the officers received the specific intelligence, that two passengers named Jamal Mulla and Saud Abdul Rehman Kurukkar, were travelling from Dubai to Mumbai by flight No.EK-500, which was scheduled to land at 02.30 hours on 15/05/2023 at CSMI Airport, Mumbai, and that they would be carrying some contraband goods in a concealed manner. Acting on that intelligence, the officers of the

Directorate of Revenue Intelligence Zonal Unit intercepted these two passengers. Their personal and baggage checks were carried out and 3535 grams of gold in the paste form was recovered from their personal search, in the presence of a Gazetted Officer and two independent witnesses. The value of the seized gold was at Rs.2,23,41,200/-, as valued by the Government approved valuer. The gold was seized. The statements of both these passengers were recorded on 15/05/2023 u/s 108 of the Customs Act. Based on their statements they were arrested. Their statements were also recorded on 16/05/2023.

4. Learned counsel for the Applicants submitted that the Applicants are not named in the FIR. There is no direct connection between the Applicants and these two passengers. Both these passengers who were arrested, as of today are released on bail. The custodial interrogation of the Applicants is not necessary. Both the Applicants are in Dubai and if they are not protected, they cannot join the investigation, though they are willing to cooperate with the investigation.

5. Learned counsel for the Applicants submitted that the Applicants want to clarify their position but they are unable to do so, because there is apprehension of their immediate arrest on landing in India. He submitted that the statements given by the co-accused are not believable and are not trustworthy.
6. Learned Special P.P. appearing for the DRI, submitted that both these passengers were intercepted and their personal search was carried out in the presence of a Gazetted Officer and two Panchas. Their statements were recorded u/s 108 of the Customs Act. Both of them have very clearly given specific role to both these Applicants. Apart from that, there is a statement of the travel agent, who has also explained the roles played by both these Applicants. He submitted that the offence is serious. Their custodial interrogation is necessary. He submitted that this is not an isolated incident. In fact, these Applicants are also involved in another offence, which is the subject matter of another similar case.

7. I have considered these submissions and I have perused the investigation papers and in particular I have perused the statements of those two accused as well as the travel agent Ayyaz Iqbal Nazir.

8. The statement of Saud recorded on 15/05/2023 mentions that he knew both the Applicants since his childhood as both of them were from his native place. Earlier he was working in Qatar. But he returned to India in 2021. For some time, he was jobless. But then he got a job in a company. He moved to Dubai on 05/05/2023 for better prospects. He approached the Applicant Sajid Inamdar who lived in Dubai to get his Visa issued so that he could go to Dubai in search of job. The Applicant Sajid in turn told him to contact the other Applicant Maiz, who also lived in Dubai. Maiz sent the Applicant's Visa over his phone. Hence he reached Dubai on 06/05/2023. His flight tickets to Dubai and the arrangement for stay in Dubai was taken care of by Maiz. On 14/05/2023 in the evening, he

received a call from Maiz. He instructed Saud to meet him outside his house. Saud went there. The other accused Jamal Mulla was waiting there. They were introduced to each other. After some time, Maiz handed over two black coloured packets to Saud and Jamal each and told them that they contained gold in paste form. He handed over the flight tickets for their journey from Dubai to India on 14/05/2022. They were to board the flight No.EK 500. Maize promised to pay Rs.15,000/- each after successful smuggling of gold into India. On arrival in Mumbai, they were supposed to hand over that gold to one person, who was to meet them and who was to utter a code-word. However, they were intercepted by the DRI Officers and thereafter the case was lodged.

9. The statement of Jamal Mulla also proceeds on the same line. He has corroborated the story of Saud. Apart from that, there is a statement of Ayyaz Nazir. He has stated that he had booked tickets for Saud and Jamal on the instructions of the Applicant Maiz. He has stated that he was instructed by both the

Applicants to delete his WhatsApp chats. Both of them told this witness that they were afraid that their role in the recent case booked by DRI, Mumbai, might get revealed.

10. Thus, from these statements it is clear that both the Applicants are involved in the offence. Both of them were acting together. The Applicant Maiz had actually handed over the gold to the co-accused Saud and Jamal. There is sufficient material against both the Applicants. The offence is quite serious. Quantity of gold is also high. The value is high. Custodial interrogation of the Applicants is necessary. I am unable to accept the submissions of Mr. Kantawala that the Applicants need to be protected u/s 438 of Cr.P.C., so that they can come to India and join the investigation. The Applicants cannot be protected u/s 438 of Cr.P.C. in view of the above discussion. The applications are dismissed.

(SARANG V. KOTWAL, J.)