

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

ANTICIPATORY BAIL APPLICATION NO. 3284 OF 2024

Manish Jain	...	Applicant
Versus		
The Union of India & Anr.	...	Respondents

Dr. Sujay Kantawala a/w Aditya Talpade and Pratik Kanade for the Applicant.

Mr. S. S. Chandrashekar a/w Ms. Megha Bajoria for Respondent No.1-UOI.

Mr. Prasanna P. Malshe, APP for Respondent No.2-State.

**CORAM: MANISH PITALE, J.
DATE : 12th DECEMBER 2024**

P.C. :

1. Heard learned counsel for the applicant and learned counsel appearing for the respondent No.1.

2. The applicant in the present case has approached this Court, apprehending arrest in connection with a case instituted by a Special Investigation & Intelligence Branch (Import) on the allegation that certain goods were sought to be clandestinely imported with the intention of avoiding huge amount of custom duty and in that context, the applicant was said to be actively involved with other individuals.

3. The learned counsel for the applicant submits that the consignee in the present case is an entity called M/s. S. S.

Overseas, located in Delhi and merely because the applicant and his proprietorship M/s. ACJ Computronix has been associated with the said entity in Delhi, certain allegations have been made against the applicant. It is submitted that the proprietor of M/s. S. S. Overseas has been already granted regular bail by the Competent Court at Delhi, making observations to the effect that the physical custody of the said accused was not necessary in the facts and circumstances of the case and that a *prima facie* case was made out.

4. It is submitted that even if the allegations levelled against the applicant and the other accused persons, pertained to Section 111(d), (l) and (m) of the Customs Act, 1962 and when read with Section 135 thereof, maximum punishment of imprisonment of 7 years is provided, so long as there is no material to link the applicant with the alleged acts, physical custody cannot be insisted upon. It is submitted that the applicant had responded to some summons issued earlier by respondent No.1, but due to ill-health, he could not attend to all the summons. It is submitted that the liability to pay custom duty cannot be foisted upon the applicant, in any manner, and that in any case, no purpose would be served in insisting upon physical custody of the applicant, so long as he is ready to cooperate with further investigation into the matter.

5. On the other hand, learned counsel appearing for respondent No.1 relied upon the affidavit in reply, which is tendered during the course of hearing. The same is taken on

record. Specific reliance is placed on statements recorded during the course of investigation, reference to which is made in paragraphs 7 to 11 of the reply affidavit. It is submitted that the aforesaid statements do indicate the direct link of the applicant with the aforesaid act, thereby indicating a strong *prima facie* case against the applicant. It is emphasized that the applicant has been evading the summons issued by the respondent No.1 and he has not cooperated with the investigation at all.

6. In the present case, it appears that the goods that were seized, were meant for delivery to the aforesaid entity at Delhi i.e. M/s. S. S. Overseas. There does not appear to be any material brought to the notice of this Court to indicate that the goods were actually meant for delivery to the applicant or his entity i.e. M/s. ACJ Computronix.

7. The statements recorded during the course of investigation, upon which the learned counsel for respondent No.1 has placed much reliance, do indicate that the applicant appears to have been in contact with the said M/s. S. S. Overseas and its proprietor and that he may have undertaken certain business with the said entity. But, the said fact in itself is not enough to indicate a direct link of the applicant with the present case. The allegation in the present case appears to be that although the consignments were declared to be containing Motherboard Casing with Power Supply, it was actually found that there were other electronic equipments also imported, which had not been declared. It is a matter of record

that the proprietor of M/s. S. S. Overseas was arrested and he was granted regular bail by the Competent Court at Delhi, on 23rd July 2024. It was observed in the order passed by the said Court that the entire goods have been already seized and considering the nature of allegations, even if custom duty is to be recovered, further physical custody of the said person was not necessary.

8. This Court is of the opinion that considering the fact that the applicant, or his entity, was not even a consignee of the said goods and the statements brought to the notice of this Court only give an impression that the applicant may have had business relations with M/s. S. S. Overseas, without specific material to link the applicant with the aforesaid goods in the present case, the application can be allowed, so long as the applicant cooperates with the investigation. The goods have been already seized and the liability to pay custom duty would certainly be ascertained and foisted upon the responsible individuals in terms of the provisions of the Customs Act, 1962.

9. In view of the above, the application is allowed in the following terms :

(a) In the event the applicant is arrested in connection with F. No. SG/INV-41/2024-25/A-Cell/SIIB(I)/JNCH on the file of Special Investigation and Intelligence Branch (Import), he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like

amount.

(b) The applicant shall remain present before the office of the Special Investigating and Intelligence Branch (Import) (SSIB) on 16th and 17th December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required by respondent No.1. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

11. The application is disposed of.

MANISH PITALE, J.