



Crl.O.P.No.42 of 2024

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C.V.KARTHIKEYAN, J.

The petitioner seeks anticipatory bail in O.S.No.69/2023-INT(AIR) & O.S.No.1054/2023-AIU-'D' Batch registered by the respondent for the offences punishable under Sections 135(1)(a), 135(1)(b) & 135(1)(i)(A) of the Customs Act, 1962, with respect to an occurrence took place on 19.09.2023.

2. It is the case of the prosecution that FIR was registered on 20.09.2023.

3. A1, who was working as a contract worker in the Airport and had authority to be present only in the Domestic Terminal was found roaming around the International Terminal nearby to the Immigration Centre. He was intercepted. From him 3,480 grams of gold had been recovered. According to him, he had received that particular gold from A2 who was a transit passenger coming from Dubai and travelling onwards to Srilanka. A2 had been identified to A1 by a photograph sent through whatsapp message. According to the prosecution, that particular photograph was sent by this petitioner who was standing outside the airport premises.



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4. The learned counsel for the petitioner stated that this petitioner, a lady is innocent of all the offences and did not know any further details. She was only called upon to transmit the photograph to an unknown number. It is stated that there was somebody else who had to receive the packet handed over by A2. It is also contended that she did not even know what the packet contained or whatever was the contraband.

5. However, investigation had revealed that the particular phone number stood in the name of the mother of this petitioner and this petitioner had earlier used that particular mobile to order food articles from Swiggy. The learned counsel pointed out the lack of credibility of such a remote connection in case of the prosecution.

6. It is the further case of the respondent that notice under Section 108 of Customs Act had been attempted to be served on the petitioner herein but efforts were vain and the petitioner did not appear for enquiry.



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7. The learned counsel for the petitioner stated that if protection is granted, the petitioner would very willingly go over to the office of the respondent and divulge all information known to her.

8. Under Section 108 of the Customs Act which is a steps in investigation the officer authorised may issue notice with intention to gather information more particularly to elicit truth. The said provision is one of the significant steps in the investigation process in any offence registered under the Customs Act. There cannot be any protection granted. It is for the petitioner to answer the said notice. A direction is given to the respondent to follow the procedure as enunciated under Section 108 of the Customs Act and if required, to record in writing the reasons for any further step in the investigation.

8. The learned counsel for the petitioner made a fervent plea claiming that the petitioner is a lady pointing out the age of the petitioner and sought indulgence from this Court.



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9. The contraband is worth about more than Rs.1/- crore and it has to be verified whether this was an one off incident or a part of series of incidents in which similar *modus operandi* was used.

10. In view of these observation except for directing the respondent to act in manner known to law, I hold anticipatory bail is not the answer. I am not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed with the aforesaid direction.

12.02.2024

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