



W.P.(MD)No.8914 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:20.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.8914 of 2023

Mohamed Azarudeen

... Petitioner

Vs.

1.The Deputy Director (Int),
Directorate of Revenue Intelligence,
D-Block, IP Bhavan, New Delhi.

2. Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Trichy Regional Unit,
No. 9c, (New No.99),
Bharathidasan Road,
Cantonment, Trichy 620 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 1st Respondent to lift the Lookout Circular in LOC.No. 23/2022 dated 06.09.2022 issued by the 1st respondent against the Petitioner vide his proceedings in Ref.No. LOC.No.DRI/HQ-G1/338/XVII/MISC-8/2022.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.C.Arul Vadivel Sekar
Special Public Prosecutor



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ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first respondent to withdraw the 'Look Out Circular' issued in LOC.No. 23/2022, dated 06.09.2022, against the petitioner through proceedings in Ref.No.LOC.No.DRI/HQ-G1/338/XVII/MISC-8/2022.

2.The case of the petitioner is that the respondent initiated proceedings for offence under Section 135(1)(b) of the Customs Act, 1962. During the pendency of the same, look out circular was issued. Aggrieved by the same, the present writ petition has been filed before this Court.

3.The second respondent has filed objection. The second respondent has stated that on 30.10.2021, based on specific information regarding smuggling of gold, a search was conducted and a total of 5085.000 grams of gold to the tune of Rs.2.48 crores was seized. Voluntary statements were recorded under Section 108 of the Customs



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Act from one Mohammed Abuthagir and Mohammed Arif. In their statements, they had stated that it was done with the help of the petitioner who was arrayed as A5 in this case. Summons was issued to the petitioner to appear before the Directorate of Revenue Intelligence for enquiry. The petitioner on the receipt of the same, filed Crl.O.P.(MD) No.6955 of 2022 seeking for anticipatory bail and the same was dismissed by an order dated 18.05.2022. A look out circular dated 06.09.2022 was issued by the competent authority and based on the same, the petitioner was detained and handed over by the Immigration Department to the DRI Officers on his arrival from Dubai to Chennai. Thereafter, the statement of the petitioner was recorded under Section 108 of the Customs Act. The petitioner was thereafter arrested on 03.10.2022 and subsequently, he was enlarged on conditional bail by the Judicial Magistrate No.1, Trichy, in Crl.M.P.No.25629 of 2022 by order dated 10.10.2022. In view of the above, the second respondent has opposed this writ petition and has sought for dismissal of the writ petition mainly on the ground that the petitioner will abscond and he will evade trial.



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4. When the matter came up for hearing on 14.11.2024, this Court on hearing both sides directed the learned Senior Counsel appearing on behalf of the petitioner as to whether the petitioner will be able to file an undertaking affidavit before this Court, based on which, final orders can be passed in this petition. Accordingly, the matter was directed to be listed for hearing today.

5. When the matter was taken up for hearing, the learned Senior Counsel appearing on behalf of the petitioner relied upon the affidavit of undertaking filed by the petitioner. The relevant portions are extracted hereunder:

“I respectfully state that the official address of the company in which I am a shareholder is given below:

*OFFICE ADDRESS: SBV ENGINEERING PTE. LTD,
5 Soon Lee Street,
#04-56, Pioneer Point,
Singapore 627607.*

CONTACT NUMBER: +65 97794560

The proof of myself being the shareholder in the said Singapore company is annexed herewith.



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Further, my residential address in India is given below:

RESIDENTIAL ADDRESS: *Mohamed Azarudeen(38/24),
S/o. Jamal Mohamed,
No.45, Christian Street,
Thuvarankurichy Post,
Manapparai Taluk,
Tiruchirappalli Rural,
Tamil Nadu - 621314.*

CONTACT NUMBER: *9994516547*

I respectfully state that I came to understand that the Charge sheet claimed to have filed before the learned Judicial Magistrate Court -I, Trichy have not been taken on file as on date. In the event of the case being taken on the file and issued summons for my appearance. I undertake to appear before the Jurisdictional Court and co-operate with the trial as and when required by the court, of course subject to the petition being filed under Sections 317 & 205 of Cr.P.C (355 & 228 of B.N.S.S) as the case may be if required. Further, I undertake that I will not protract the trial and make myself available for trial as and when required.”



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6. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor appearing on behalf of the respondents.

7. Taking into consideration the facts and circumstances of the case and in order to balance the rights of both parties and in order to ensure that the petitioner properly participates in the process of trial, this Court is inclined to act upon the undertaking given by the petitioner. In view of the same, there shall be a direction to the first respondent to keep the look out circular issued in LOC.No. 23/2022, dated 06.09.2022 in abeyance. In such an event, the petitioner will be able to travel from and to India. The petitioner will also strictly go by the undertaking given before this Court by participating in the trial and enabling the case to be completed as expeditiously as possible. However, in the event of the petitioner going back on the undertaking and starts evading the trial, it is always left open to the first respondent to revive the look out circular and secure the petitioner and produce him before the Court to make him undergo trial. Necessary proceedings shall be issued by the first respondent in this regard within a period of two weeks from the date of



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receipt of a copy of this order.

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8.This writ petition is disposed of with the above directions.

20.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

- 1.The Deputy Director (Int.),
Directorate of Revenue Intelligence,
D-Block, IP Bhavan, New Delhi.
2. Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Trichy Regional Unit,
No. 9c, (New No.99),
Bharathidasan Road,
Cantonment, Trichy 620 001.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

PKN

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