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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3009/2023

DIRECTORATE OF REVENUE INTELLIGENCE

..... Petitioner

Through: Mr.Harpreet Singh, Sr. St.
Counsel, Ms.Suhani Mathur,
Mr.Jatin Kumar Gaur, Advs.

versus

MONIR AHAMD

..... Respondent

Through: Mr.Brij Lal Chaurasia, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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20.05.2024

1. This petition has been filed under section 439 (2) read with Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking cancellation of the Bail that has been granted to the respondent by the Order dated 18.01.2023 (hereinafter referred to as the 'Impugned Order') passed by the learned Additional Sessions Judge (Special Judge-NDPS), South District, Saket Courts, New Delhi (hereinafter referred to as the 'Trial Court').

2. It is the case of the prosecution that based on the specific information that some contraband goods might be concealed in a consignment imported vide Bill of Lading No. JEA/NSA/7065 dated 01.01.2022, declaring it to contain 'Rock Salt Powder' with consignee details as 'M/s Good Life Global', the officials of the respondent examined the four containers on 16.02.2022 and 17.02.2022. It is alleged that during the said examination of one of the containers, examined on 17.02.2022, two HDPE bags containing off-white yellowish colour substance having some pungent smell were found kept concealed in the



third last rack inside the said container. It is alleged that the substance recovered from the said two HDPE bags was tested with the help of the field Drug Detection Kit and it gave a positive result for the presence of 'Heroin'. It is alleged that the examination of said four containers has resulted in the recovery and seizure of 34.70 kg of Heroin. The consignment was originally in the name of M/s Abetar Healthcare Pvt. Ltd., however, as one of the Directors of the said Company refused to accept the same, the name of the consignee was thereafter changed to M/s Good Life Global.

3. It is the case of the prosecution, the respondent used to import items by using Import-Export Certificate of M/s Abetar Healthcare Pvt. Ltd. and he is the one who had introduced the co-accused, Nitish Kumar (Proprietor of M/s Good Life Global) to the co-accused Dev Singh (one of the Directors of M/s Abetar Healthcare Pvt. Ltd.). It is stated that it is on the advice of the respondent herein, that the co-accused Dev Singh had rented the basement of his shop to co-accused Nitish Kumar for opening an office of M/s Good Life Global. It is further alleged that the respondent was aware about the transaction of Rs.7 lakhs between co-accused Dev Singh and Abdul Nasir. It is alleged that the respondent is the one who arranged the transfer of said import consignment of Rock Salt Powder from the name of M/s Abetar to the name of M/s Good Life Global.

4. The learned Standing Counsel for the petitioner submits that the learned Trial Court has completely misread the case of the prosecution as against the respondent. He submits that the Impugned Order has been passed on an incorrect presumption that the respondent is a director of M/s Abetar Healthcare Pvt. Ltd., the original/initial consignee of the



alleged Rock Salt Powder containing the alleged contraband. He submits that it is not the case of the prosecution that the respondent was a director of M/s Abetar Healthcare Pvt. Ltd. He submits that the case of the prosecution is that the respondent has, right from the beginning, used M/s Abetar Healthcare Pvt. Ltd as also the eventual consignee M/s Good Life Global, New Delhi to import the alleged contraband. In fact, import documents were found from the premises of the respondent. He submits that the co-accused have also named the respondent to play a pivotal role in the entire import process.

5. On the other hand, the learned counsel for the respondent submits that there is only a typographical error in the Impugned Order dated 18.01.2023, inasmuch as it described the role of the respondent as a Director of M/s Abetar. He submits that otherwise there is no evidence against the respondent of having played any part in the process of import of contrabands, barring the statements of co-accused person which are, even otherwise, not admissible in view of the judgment of the Supreme Court in *Toofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1.

6. I have considered the submissions of the learned counsels for the parties.

7. A reading of the Impugned Order dated 18.01.2023 would show that the learned Trial Court has premised the entire Order granting Bail to the respondent on the basis that the respondent is a director of the M/s Abetar Healthcare Pvt. Ltd., which was the original/initial consignee of the import consignment from Iran. It is on that basis the learned Trial Court eventually considered it to be a fit case to release the respondent on Bail.

8. As the Impugned Order is based on an incorrect premise, this



Court has no other option but to set aside the Impugned Order granting Bail to the respondent.

9. At the same time, this Court is cognizant of the fact that other co-accused have been granted Bail by the learned Trial Court and the challenge to those Orders have been rejected by this Court by a separate Order passed today. This Court is also cognizant of the fact that one of the co-accused has also been granted Bail by this Court by a separate Order passed today.

10. Keeping in view the above factors, while the Impugned Order is set aside, the respondent shall not be taken into custody for a period of two weeks from today. The respondent shall be at liberty to file a fresh application seeking Bail before the learned Trial Court, which shall be considered by the learned Trial Court on its own merits in accordance with law. The said application, if filed by the respondent within the above period, shall be considered by the learned Trial Court expeditiously and preferably within a period of two weeks of its filing. The continuation of the *interim* protection granted hereinabove shall be considered by the learned Trial Court.

11. With the above directions, the present petition is disposed of.

NAVIN CHAWLA, J

MAY 20, 2024/Arya/AS

[Click here to check corrigendum, if any](#)