

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21385 of 2025

Arising Out of PS. Case No.-34 Year-2024 Thana- D.R.I District- Patna

Hira Singh Bhati Son Of Late Manohar Singh Bhati @ Monohar Bhati
Resident Of Navratan Singh, 32a, R.K. Puram, Khirni Pathak, Khatipura, P.S.
- Vaishali Nagar, District - Jaipur, Rajasthan

... .. Petitioner/s

Versus

The Union Of India Through Dri, Regional Unit, Patna Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shri Prakash Tiwari, Advocate
For the Opposite Party/s : Mr. Sriram Krishna, SSC
Mr. Shanshank Shekhar Kunwar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 27-06-2025 Heard Mr. Shri Prakash Tiwari, learned counsel for
the petitioner and Mr. Sriram Krishna, learned Sr. Standing
Counsel for the DRI (UOI).

2. Petitioner seeks bail who is in custody since
30.03.2024 in connection with Economic DRI Case No. 25 (O)
of 2024 for the offences punishable under Sections 135 (1) (a)
and 135 (1) (b) of the Customs Act, 1962.

3. Earlier the bail application of the petitioner has
been rejected by this Court vide order dated 21.09.2024 passed
in Cr. Misc. No. 46412 of 2024. Thereafter, the petitioner
preferred Spl. Leave to Appeal (Criminal) No. 14499 of 2024
before the Hon'ble Apex Court but the same was dismissed vide
order dated 22.10.2024.



4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that it appears from the FIR as well as seizure list that gold bullion was not recovered from the possession of the petitioner rather the same has been recovered from the Hyundai Creta Car bearing Reg. No. WB-20-BE-5123 and the petitioner was apprehended along with other accused person, namely, Mahipal Singh. He further submits that around 5263.200 grams of gold bullion worth of Rs. 3,69,00,259/- along with two mobile phones, driving license, Aadhar card, PAN Card and some cash were recovered from the possession of the petitioner and similarly one mobile phone, driving license, one Aadhar card, PAN Card and some cash were also recovered from the possession of the co-accused, Mahipal Singh. He further submits that the statement of the petitioner was recorded under Section 108 of the Customs Act in which he has categorically stated that the car in question belongs to him and the recovered gold bullion is liable for confiscation under Section 11 of the Customs Act and as per Section 125 of the Customs Act, the seizing authority may levy fine in lieu of consfication. Section 11 of the Customs Act suggest that the gold is not prohibited but restricted subject and



in lieu of confiscation fine may be levied, in the circumstances, gold is not prohibited but restricted subject to prescribed payment of duty, thus alleged recovery of gold is not prohibited goods under Section 2 (33) of the Customs Act, but it is restricted goods in view of the judgment of three Judges Bench of the Hon'ble Apex Court in the case of Commissioner of Customs Vs. Atul Automation Pvt. Ltd (2019) 3 SCC 539. Hence, no case is made out under Sections 135(1)(a) and Section 135(1)(b) of the Customs Act. He further submits that similarly situated, co-accused, namely, Mahipal Singh has been granted bail by this Court vide order dated 21.09.2024 passed in Cr. Misc. No. 45271 of 2024. The petitioner is in custody since 30.03.2024 nearly about 15 months. Apart from that the investigation has already been completed and charge sheet has also been submitted by the prosecution.

5. Learned senior standing counsel for the DRI has vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation that the petitioner is the owner of the car in question and apart from that the petitioner has himself given his statement which was recorded under Section 108 of the Customs Act that the car in question belongs to him. He further submits that the recovery of gold



bullion/biscuits weighing about 5263.200 grams was made from the car in question and the petitione was apprehended with the aforesaid gold in question.

6. Considering the aforesaid facts and circumstances that the petitioner has clean antecedent, DRI has already filed prosecution case after the investigation so there is no requirement of custody in the present, the co-accused person, Mahipal Singh has been granted bail by this Court as well as period of custody, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 50,000/- (Fifty Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Economic Offence Cases at Patna in connection with Economic (DRI) Case No. 25 (O) of 2024, subject to the following conditions:-

i. Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.



iii. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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