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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 745/2025 & CRL.M.A. 5396-98/2025, CRL.M.(BAIL)
365/2025**

MOHAMMAD SHARIF

.....Petitioner

Through: Mr. S.Vijay Kanth and Mr. Utkarsh
Tripathi, Advocates.

versus

CUSTOMS

.....Respondent

Through: Mr. Gibran Naushad, Senior Standing
Counsel with Mr. Harsh Singhal,
Advocate and IO Rakhee.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

06.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the BNSS seeks regular bail in case File No. VIII(AP)10/P&I/5225-D/Arrival/2025 under Sections 132 and 135 of the Customs Act, 1962 registered with Customs.
3. The case of the Customs is that the present applicant alongwith his wife arrived at T-3 IGI Airport, New Delhi on 12.01.2025 from Bahrain by Flight No. GF134 dated 12.01.2025 while they were travelling from Jeddah, Saudi Arabia to New Delhi *via* Bahrain and were intercepted after they had crossed the Green Channel. During the X-Ray of their luggage, certain suspicious images were seen and thereafter the said luggage was checked. After checking of the luggage, gold totalling weighing 1528 gms was recovered from the bags which was concealed in the manner stated in the *panchnama*. It is the case of the Customs that the market value of the aforesaid gold in INR is Rs.



1,52,87,940/-. The applicant was arrested on 13.01.2025 and has been in custody since then.

4. Learned counsel appearing on behalf of the applicant submits that the applicant alongwith his wife had gone to pilgrimage leaving their two minor children with their relative. It is the case of the applicant that they had met some Indian national working as tour guide there and when he was scheduled for departure after completing the pilgrimage the said person approached them and asked for favour to carry his luggage to India. It is the case of the applicant that the luggage carried by them was, in fact, handed over to the applicant by the aforesaid person at Jeddah Airport. It is submitted that the wife of the applicant had already been granted bail by the learned Trial Court on humanitarian grounds. It is further submitted that the applicant has been in custody since 13.01.2025 and no purpose will be served in continued incarceration since the contraband has already been seized. It is submitted that the present applicant is a daily wage labourer who is residing alongwith his family at Neemuch, Madhya Pradesh.

5. *Per contra*, learned Senior Standing Counsel for the Customs submits that the recovery in the present case is huge and the defence of the present applicant is a matter of trial. It is stated that the total recovery of 1528 gms of gold was in the form of 15 silver coloured metal wires which was concealed inside the lining of the bags carried by the present applicant and his wife. It is submitted that further investigation is being conducted with respect to smuggling syndicate involved in arranging money to purchase the gold which was being carried by the applicant and therefore, if the applicant is released on bail, the same would hamper the investigation. It is further submitted that the applicant is involved in crime which endanger the economic and national



interest and if he is released on bail he may indulge in similar prejudicial activities.

6. Heard learned counsel for the parties and perused the record.

7. The applicant in the present case was arrested on 13.01.2025. The offences alleged against the present applicant are punishable upto 7 years of imprisonment and the total period of investigation in terms of Section 187(3) of the BNSS (Section 167(2) of the CrPC) is 60 days. It is not the case of the respondent, at this stage, that the investigation is complete and, in fact, in the reply filed on their behalf, it is stated that investigation is still continuing. The contraband already stands seized. It is also not the case of the respondent that the chargesheet would be filed before the expiry of the statutory period of sixty days for the completion of investigation from the date of the arrest of the present applicant.

8. In view of the aforesaid facts and circumstances of the present case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions: -

- i. The applicant shall not leave India without prior permission of the learned Trial Court;
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address;
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing;
- iv. The applicant is directed to give his mobile number to the Investigating



Officer and keep it operational at all times;

- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner;
- 9. The application is allowed and disposed of accordingly.
- 10. Pending applications, if any, also stand disposed of.
- 11. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made herein are only for the purpose of the present bail application.
- 12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
- 13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 06, 2025/sn

Click here to check corrigendum, if any