



IN THE SUPREME COURT OF INDIAN  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1835 OF 2022  
(Arising out of SLP(Cr1) No. 4094/2022)

SANJAY AGARWAL

APPELLANT(S)

VERSUS

THE DIRECTORATE OF ENFORCEMENT

RESPONDENT(S)

WITH

SPECIAL LEAVE PETITION(CRL.)No. 7873/2021

O R D E R

SLP(Cr1) No. 4094/2022

Leave granted.

This appeal challenges the judgment and order dated 13.04.2022 passed by the High Court of Calcutta in CRM (SB) No.5/2022.

The present case arises out of proceedings initiated by the Enforcement Directorate *vide* ECIR/KLZO/-II/01/2021 alleging commission of offences punishable under the Prevention of Money Laundering Act, 2002 (for short, 'the PML Act). The predicate or scheduled offence allegedly committed

by the appellant-Sanjay Agarwal is one under Section 132/135 of the Customs Act, 1962, pertaining to diversion of 54 Kgs of primary gold which was imported by the appellant through the canalizing Agency-Metals & Minerals Trading Corporation (MMTC). In terms of the scheme, the appellant was permitted to import primary gold at a reduced rate so that after doing value addition and converting said gold into gold jewellery, he could earn valuable foreign exchange for the country by export of such gold jewellery.

It is alleged that rather than exporting gold jewellery in terms of the obligation, the jewellery was diverted in the domestic market and in the process the offences were committed by the appellant.

It appears that the appellant was admitted to regular bail in connection with the aforesaid offences punishable under the provisions of Customs Act *vide* order dated 28.08.2018. Upon registration of the proceedings by the Enforcement Directorate on 03.02.2021, the appellant came to be arrested in said PMLA case on 28.11.2021 and has since then been in custody.

At this stage, we need not go into the submissions raised on behalf of either side. The fact of the matter is that for an offence where the maximum sentence could be punishable with imprisonment for seven years, the appellant has undergone custody for about a year.

It further appears that the investigation is still pending and the matter is not ripe for trial on merits before the appropriate Court.

Considering the entirety of the circumstances on record and in the peculiar facts, in our view, the appellant is entitled to the relief of bail. We, therefore, proceed to pass following directions :

- (a) The appellant shall be produced before the concerned Court within three days and the concerned Court shall release the appellant on bail subject to such conditions as the Court may deem it appropriate to impose.
- (b) Such conditions shall include following stipulations-
  - (i) that the appellant shall swear an affidavit as to the details of the passport(s) held by him, which along with

affidavit, shall be tendered before the Enforcement Directorate.

- (c) The appellant upon being released on bail shall mark his presence in the office of the Enforcement Directorate every Monday between 11.00 am to 1.00 pm.
- (d) The appellant shall not in any way hamper the investigation and/or seek to influence the course of investigation or the witnesses. Any such attempt or infraction in that behalf shall entail in cancellation of the relief granted vide this Order.

With these observations the appeal is allowed.

Pending applications also stand disposed of.

SLP(CRL.)No. 7873/2021

The present Special Leave Petition arises out of grant of bail to the petitioner-Preet Kumar Agarwal, Son of the appellant in Criminal Appeal No.1835 of 2022 arising from Special Leave petition(Cr1.) No.4094 of 2022.

According to the prosecution, the gold jewellery was sought to be diverted with the help of the present respondent.

After considering the matter on various issues, the High Court was pleased to grant relief of bail *vide* order dated 05.05.2021, which order is presently under challenge.

Without going into any of the grounds which has weighed with by the High Court, we consider the fact that the release was ordered way back on 05.05.2021 and the fact that beyond the assertion that the son was helping his father in the activities as alleged, nothing specifically has been attributed to the respondent.

Given the circumstances, in our view, no interference is called for. We, therefore, dismiss the Special leave petition.

Pending applications also stand disposed of.

We make it clear that none of the observations made in connection with instant petitions (SLP(Cr1) Nos. 4094/2022 and 7873/2021) shall have any bearing so far as merits of the matter are concerned nor shall any observations

made by us shall be taken as reflection on merits  
of the rival submissions.

.....CJI.  
(UDAY UMESH LALIT)

.....J.  
(BELA M. TRIVEDI)

NEW DELHI  
OCTOBER 21, 2022

ITEM NO.24

COURT NO.1

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 7873/2021

(Arising out of impugned final judgment and order dated 05-05-2021 in CRM No. 3549/2021 passed by the High Court At Calcutta)

THE DIRECTORATE OF ENFORCEMENT

Petitioner(s)

VERSUS

PREET KUMAR AGARWAL

Respondent(s)

WITH

SLP(Cr1) No. 4094/2022 (II-B)

(IA No. 137441/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 73102/2022 - EXEMPTION FROM FILING AFFIDAVIT, IA No. 65399/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 80726/2022 - INTERIM BAIL AND IA No. 73101/2022 - INTERIM BAIL)

Date : 21-10-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Parties

Mr. Tushar Mehta, SG  
Mr. Zoheb Hossain, Adv  
Mr. Kanu Agrawal, Adv  
Mr. Bhuvan Kapur, Adv  
Mr. Madhav Sinhal, Adv  
Mr. Mukesh Kumar Maroria, AOR

Mr. Vikram Chaudhri, Sr.Adv.  
Mr. Keshavam Chaudhri, Adv.  
Mr. Rishi Sehgal, Adv.  
Ms. Prabhneer Swani, Adv.  
Ms. Arveen Sekon, Adv.  
Mr. Devanshu Yadav, Adv.  
Ms. Anzu. K. Varkey, AOR

UPON hearing the counsel the Court made the following  
O R D E R

SLP(Cr1) No. 4094/2022)

Leave granted.

The appeal is allowed and the appellant be released on bail in terms of the directions issued in the signed order.

Pending applications also stand disposed of.

**SLP(Cr1) No. 7873/2021**

The Special Leave Petition is dismissed in terms of the signed order.

Pending applications also stand disposed of.

**(NEETU KHAJURIA)**  
**ASTT. REGISTRAR-cum-PS**

**(VIRENDER SINGH)**  
**COURT MASTER**

(Signed order is placed on the file.)