

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE SHIRCY V.

TUESDAY, THE 31ST DAY OF AUGUST 2021 / 9TH BHADRA, 1943

BAIL APPL. NO. 6398 OF 2021

AGAINST THE ORDER/JUDGMENT IN CRMC 1578/2021 OF DISTRICT COURT &
SESSIONS COURT, ERNAKULAM, ERNAKULAM

(O.R.O.5 OF 2021 OF CUSTOMS (PREVENTIVE) COMMISSIONERATE, COCHIN)

PETITIONER/ACCUSED NO.2

ARJUN A. @ ARJUN AYANKI
AGED 24 YEARS
S/O.RAJEEVAN, AYANKI HOUSE, KOVVALODY, AZHIKAL P.O.,
KANNUR DISTRICT, PIN - 695 541.

BY ADVS.
P.VIJAYA BHANU (SR.)
RAMEES P.K.

RESPONDENT/COMPLAINANT

SUPERINTENDENT OF CUSTOMS
CUSTOMS (PREVENTIVE) COMMISSIONERATE, COCHIN,
REPRESENTED BY SPECIAL PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM - 682 031.

BY ADV SASTHAMANGALAM S. AJITHKUMAR-Spl.PUBLIC
PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
27.8.2021, THE COURT ON 31.8.2021 DELIVERED THE FOLLOWING:

ORDER

The petitioner who is arraigned as accused No.2 in O.R.No.5 of 2021 of Customs (Preventive) Commissionerate, Cochin has moved this application under Sec.439 of the Code of Criminal Procedure.

2. Acting on a tip off the officers of the Air Customs Intelligence Unit, Calicut International Airport, Karipur on 21.6.2021 intercepted a passenger viz; Mohammed Shafeeq, Melathil who landed in Air India flight No.A1 938 from Dubai. The officials conducted his body search and then checked his baggage and a gold cylinder of 2332 gms of 24 carat worth Rs.1,11,00,032/- was found in his baggage. As it was found as smuggled gold the same was seized by the Superintendent of Customs and his statement was recorded under Sec.108 of Act. He then admitted that the gold was arranged through one Salim and it was second accused who introduced him to one Mohammed who in turn introduced to Salim who arranged the gold to be smuggled. When the first accused arrived at the airport, second accused was waiting outside to receive the same from him. Another gang of smugglers who financed the smuggling operation

were also there in the airport to snatch away the gold from second accused and when it was realized that the first accused was apprehended, the second accused fled away from the Airport. The gang of smugglers waiting for the second accused under the impression that the smuggled gold was with him chased him in their vehicles. But their vehicle colluded with a lorry and five persons sustained serious injuries and they succumbed to the injuries at the spot. When it was revealed that the second accused had an active role and participation in the smuggling of gold, he was apprehended on 29.6.2021. Thereby he has been booked for the aforementioned offences, is the summarized version of the prosecution.

3. The learned counsel for the petitioner submitted that the allegations leveled against him are absolutely false and baseless. In fact he has fully co-operated with the investigation of the case, even then the investigating agency could not collect any incriminating materials against him. As he is undergoing incarceration for the last two months, this application for his release on bail.

4. The respondent filed objection mainly contending that this petitioner is operating a gang indulging in various anti-social activities including smuggling. This petitioner is having active involvement not only

in the smuggling of gold but also in snatching away gold from the passengers who act as carriers on their arrival in various Airports. The application is vehemently opposed as he is an influential person indulging in criminal activities causing threat to the economic security of the nation.

5. Heard the learned counsel for the petitioner as well the learned counsel for the Customs.

6. The petitioner has been apprehended on 29.6.2021. It appears that nothing has been seized from this petitioner though the allegation is that he is the kingpin who made arrangements for smuggling of gold from abroad. Since the investigating agency requires more time to unearth the details involved in this case, they could not submit the final report after completion of the investigation .

7. Doubtless that the nature of the accusation levelled against this petitioner as well the other accused are very grave and serious. It is fact that so many persons are involved in the smuggling business which is a real threat as it creates instability and corrosive impact on the economy of our country. The illicit trade of gold is increasing day by day though the customs is vigilant and cases are being registered regularly; still the authorities could not curb the same totally due to various reasons. But it is a fact that the petitioner is in custody since 29.6.2021 and the

investigating agency is still collecting materials to apprehend all the persons involved in this smuggling business. Though the complicity of this petitioner in the alleged crime is prima facie revealed from the materials so far collected by the investigating agency, considering the period of detention undergone by him in judicial custody as well the fact that the investigating agency could not complete the investigation of the case till date, he is entitled for default bail. Therefore, he can be enlarged on bail subject to the following conditions;

(i) The petitioner shall be released on bail on his executing bond for a sum of Rs. 5,00,000 /- (Rupees five lakhs only) with two solvent sureties for the like sum each to the satisfaction of the court having jurisdiction. One surety shall be a close relative.

(ii) The petitioner shall appear before the investigating officer twice in a month ie; on the first and last Mondays of every month between 11.a.m and 12 noon, till filing of the charge sheet.

(iii) The petitioner shall not enter into Kannur district for a period of 3 months or till filing of the final report; whichever is earlier.

(iv) The petitioner shall surrender his original passport before the court concerned. If he is not having a passport, he shall file an affidavit regarding the same before the jurisdictional court, within a week of his release on bail.

(v) The petitioner shall not directly or indirectly, make any

inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.

(vi) The petitioner shall not commit any offence while on bail.

(vii) The petitioner shall not leave the State of Kerala without the prior permission of the jurisdictional court.

The bail application is allowed accordingly.

Sd/-

SHIRCY V

JUDGE

smm