

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.

(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.251 of 2022

CNR No.MHNS010007902022



Dnyaneshwar Dinkar Waphare

Age : 38 years, Occ : Agent

R/o : Room No.404, Shreeji Residency

4th Floor, Plot No.138, Sector-4,

Karanjaade, Panvel, Maharashtra .. Applicant/Accused.

V/S

State of Maharashtra

Through – Superintendent of Custom

Department, Nashik (C. No.VIII (Cus)

25-28/SIIB/Terdeck Traders/2022) .. Respondent/State.

Appearance :

Ld. Adv. Shri. Avinash J. Bhide for Applicant/Accused.

Ld. Spl. P.P. Shri. Shashikant S. Dalvi for Respondent/State.

ORDER BELOW EXH. No.1
(Delivered on 04th March, 2022)

1. This is an application filed under Section 439 of Criminal Procedure Code for grant of regular bail in C. No.VIII (Cus) 25-28/SIIB/Terdeck Traders/2022 registered with the respondent Customs Department, Nashik for an offence punishable under Sections 135(D) of The Customs Act,1962.

2. It is the case of the respondent that applicant abated the attempt of commission of an offence punishable under Sections 135(D) of The Customs Act,1962 with other co-accused by helping them in filing 24 shipping Bills to the exporter for fraudulent attempt

to claim export incentives of Rs.1,71,38,720/- (Rupees One Crore Seventy One Lakh Thirty Eight Thousand Seven Hundred Twenty Only) in violation of the provisions of the Customs Act, 1962.

3. It is the case of the applicant that, he was arrested on 14.02.2022 and was remanded to Magistrate custody on the same day. The applicant is an innocent and has not committed any offence. The evidence is documentary in nature and the applicant has handed over of the documents to the respondent. Therefore, detaining him in Jail, will not serve the purpose. The other two accused persons are also arrested. The applicant is ready to abide by the terms and conditions. Therefore, prayed to allow the application.

4. Respondent filed say vide Exh.6 and strongly objected on the grounds that, investigation is in progress. The alleged offence is serious economic offence for his personal enrichment which is detrimental to the economic health of the Nation. The applicant has fraudulently attempted to avail export incentives of Rs.1,71,38,720/- (Rupees One Crore Seventy One Lakh Thirty Eight Thousand Seven Hundred Twenty Only). The applicant has active involvement in the said Crime with the co-accused persons. They have cheated by preparing false bills and documents for getting export incentives. They found that there was mis-declaration of quantity, quality, identity of goods, value of goods etc., Therefore, prayed to reject the application.

5. Heard Ld. Advocate for the Applicant and Ld. Spl. P.P. for the Respondent/State. Gone through the entire material on record, so also the provisions of Sections 135(D) of The Customs Act,1962.

6. Upon hearing and going through the material placed on record, what can be gathered is that the Sections 135(D) of The Customs Act,1962 provides for a punishment upto 7 years with a minimum cap of 1 year. It is a fact that, on the day of producing the applicant before Ld. J.M.F.C., the M.C.R. was sought. It is argued that the respondent does not have place to keep the applicant in custody. Therefore, the M.C.R. was sought. Therefore, it seems that the investigation is in progress. Applicant is an agent and other two accused persons are the proprietors of M/s. Terdeck Traders. Though it is an attempt still there is penal provision for it. Though the Customs Officers have verified, but the respondent is a Vigilant Branch of Customs Department and on an information received by them, they have acted upon an arrested the applicant and other accused persons. The statement of the applicant came to be recorded and certain facts are revealed by the respondent. It is a serious economic offence, which affects the economy of the Country. The shipping bills and other documents, which were produced by the applicant and co-accused persons required to be thoroughly investigated. There are some other persons involved in the said Crime. If the applicant is enlarged on bail, certainly the investigation will hamper. Therefore, this Court finds that, this is not the right time to enlarge the applicant on bail. In the result, the applicant fails. Hence, the order.

ORDER

Criminal Bail Application No.251/2022
stands rejected and disposed off accordingly.

Place : Nashik.
Date : 04/03/2022

(M. H. Shaikh)
Additional Sessions Judge, Nashik.