

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

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

Criminal Bail Application No.285 of 2022

CNR No.MHNS010008632022



1. **Santosh Devram Sakpal**
Age : 25 years, Occ : Business
2. **Sagar Devram Sakpal**
Age : 31 years, Occ : Business
Both R/o : Samta CHS, Lane No.3,
Room No.11, Maharashtra Nagar,
Mankhurdh, Mumbai. .. 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. Nilesh V. Shinde for Applicant/Accused.
Ld. Spl. P.P. Shri. Shashikant S. Dalvi for Respondent/State.

ORDER BELOW EXH. No.1
(Delivered on 14th 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) & 104 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) & 104 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.1,40,15,979/- (Rupees One Crore Forty Lakh Fifteen Thousand Nine Hundred Seventy Nine Only) in violation of the provisions of the Customs Act, 1962.

3. It is the case of the applicants that, they were arrested on 14.02.2022 and was remanded to Magistrate custody on the same day. The applicants are an innocent and have not committed any offence. The evidence is documentary in nature and the applicants have handed over the documents to the respondent. Therefore, detaining them in Jail, will not serve the purpose. The applicants are ready to abide by the terms and conditions. Therefore, prayed to allow the application.

4. Respondent filed say vide Exh.7 and strongly objected on the grounds that, investigation is in progress. The alleged offence is serious economic offence for their personal enrichment, which is detrimental to the economic health of the Nation. The applicants have fraudulently attempted to avail export incentives of Rs.1,40,15,979/- (Rupees One Crore Forty Lakh Fifteen Thousand Nine Hundred Seventy Nine Only). The applicants have active involvement in the said Crime with the co-accused. 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 Applicants and Ld. Spl. P.P. for the Respondent/State. Gone through the entire material on record, so also the provisions of Sections 135(D) & 104 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) & 104 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 applicants 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. Accused No.3 is an agent and applicants 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 and arrested the applicants and accused No.3. The statements of the applicants 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 applicants and accused No.3 required to be thoroughly investigated. There are some other persons involved in the said Crime. If the applicants are enlarged on bail, certainly the investigation will hamper. Therefore, this Court finds that, this is not the right time to enlarge the applicants on bail. In the result, the applicants fails. Hence, the order.

ORDER

Criminal Bail Application No.285/2022
stands rejected and disposed off accordingly.

Place : Nashik.
Date : 14/03/2022

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