

Sanjay Verma Vs. State

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Court : Delhi

Decided On : Apr-08-1991

Reported in : 1991(2)Crimes325; 1991(21)DRJ51; 1991(33)ECC243

Judge : R.L. Gupta, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 641 of 1991

Appellant : Sanjay Verma

Respondent : State

Advocate for Pet/Ap. : D.C. Mathur,; L.C. Sikka and; B.P. Sawhney, Advs

Judgement :

R.L. Gupta, J.

(1) This petition has been filed under Section 439 of the Code of Criminal Procedure (Code in short) praying for release of the petitioner on bail.

(2) I have heard arguments advanced by learned counsel for the parties, The material facts in this case are that acting on reports. Officers of Directorate of Revenue Intelligence (DIR in short), intercepted truck No. Rmm - 5254 on G.T. Kamal Road. Delhi in front of Factory premises A-71, G.T. Karnal Road. Delhi at

about 4.30/5 A M on 21-1-1991. Two drivers Bashir Khan and Hasan Din, three helpers (one co-accused with the petitioner and tow others) were found in the truck at the time of interception. Three other persons, namely, Vipin Kumar Kapoor, Sanjay Verma-petitioner and Mohsin Anwar were present near the truck at the time of interception. The aforesaid factory belongs to the petitioner.

(3) Vipin Kumar Kapoor tried to run away but was over powered after a brief scuffle. The truck drivers and helpers were brought to the office Complex of Dir at 1.P. Bhawan for its thorough rummaging. On search before two alleged independent witnesses 25 silver slabs wrapped in gunny bags were recovered from the floor of the truck concealed with thick layer of soil. Each of the silver slabs weighed more than 30 kilograms and the value of the seized silver was assessed at 57,95,912.00

(4) Learned counsel for the petitioner contended that there was no corroborative evidence in this case to show that the silver was smuggled from Pakistan. Petitioner could not be imputed with the knowledge that was smuggled from Pakistan and statement of a co-accused, if any, against the petitioner was not admissible to corroborate the said fact. It is also argued that the presumption arising under Section 123 of the Customs Act that the goods were smuggled will not apply to the case of the petitioner. Learned counsel further argues that assuming everything against the petitioner for the sake of argument, the petitioner will be disentitled to bail only if circumstances like that the petitioner will not be available during the course of the trial or that the offence was so grave or against public interest or that during the period of bail, he may tamper with the evidence or that he is likely to commit offence of a similar nature, are prima facie shown to exist from the record. He has also cited the case of Gurcharan Singh & Ors. v State (Delhi Admin.) AIR. 1978 Sc 179 for the proposition that the court should lean in favor of granting bail even in non-bailable offences. On the other hand learned counsel for the State has contended that there was concrete information with the Dir officials that silver was coming from Pakistan and that the petitioner and other persons will be there to receive it at the factory of the petitioner. The time of the occurrence was such that the petitioner could not have been present at the spot unless he was aware of the arrival of the silver. No document was there in

the truck which could establish that legally such a huge quantity of silver could be transported. He further argued that the very fact that the silver was found concealed under thick layer of soil will prima facie go to show that it was smuggled. He has also drawn my attention to the statement of the petitioner recorded under Section 108 of the Customs Act.

(5) I have carefully considered the rival contentions. The occurrence took place on a severe winter morning i.e. on 21-1-91 at about 5-00 A.M. The house of the petitioner admittedly is 3 to 4 Kilometers from his factory. Prima facie, he would not have been present there at that early hour of the morning unless he had prior information about the arrival of the truck containing silver. The very fact that silver was concealed under thick layer of soil) would prima facie go to show that clandestine effort was being made to bring silver in Delhi At this stage it is not possible to say that the statement of the petitioner under Section 108 of the Customs Act is not admissible because of subsequent retraction. Coupled with that is the question whether he was an accused at all or not when he made the statement. He is alleged to have stated that his father Harish Verma was the bullion merchant on commission basis and he had come to the factory at that time as per the instructions of his father for placing the silver bars which were being brought to Delhi by truck and the same were to be taken over from Vipin Kumar Kapoor. Vipin Kumar Kapoor was known to him and his father for the last about six months prior to the statement. He is also alleged to have stated that the silver bars which were to be kept in his factory were smuggled from Pakistan as per the information conveyed to him by his father. The fact that such a huge quantity of silver was concealed under thick layer of soil prima-facie provides corroborative evidence regarding the silver being smuggled from Pakistan. It also prima facie shows that the petitioner is concerned in keeping or concealing an article which he should have reason to believe is liable to confiscation under Section 111 of the Customs Act. It may be quite appropriate to quote some observations from the case of *State of Gujarat v Mohanlal Jitamatji Porwal* and another reported in : 1987 CriLJ1061 from para 5 at page 1324, 'The entire Community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate

design with an eye on personal profit regardless of the consequence to the Community. A disregard for the interest of the Community can be manifested only at the cost of forfeiting the trust and faith of the Community in the system of administration of justice in an even handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of damage done to the National Economy and National Interest'. Above observations show that economic offences are placed even at a higher pedestal than murder. In the present case the petitioner is also alleged to have stated that earlier also he used to help his father in his smuggling activities and involved in the seizure case of 120 foreign marks gold biscuit in the month of January, 1987. thereforee, it is a case where the petitioner is also likely to indulge in offences of a similar nature if released on bail.

(6) Taking into consideration the totality of the circumstances. I am of the view that it is not a fit case for grant of ball. However, any observations made by me for consideration of bail will not prejudice the mind of the learned trial court which is free to reach its own conclusion. Petition is dismissed.

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