

Ramesh Kumar Vs. State (Central Bureau of Investigation)

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Court : Delhi

Decided On : Apr-01-1994

Reported in : 1994IIAD(Delhi)485; 54(1994)DLT393

Judge : V.B. Bansal, J.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439; [Indian Penal code, 1860](#) - Sections 120B

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 388 of 1994

Appellant : Ramesh Kumar

Respondent : State (Central Bureau of Investigation)

Advocate for Pet/Ap. : Maldeep Sidhu and; S. Lal, Advs

Judgement :

V.B. Bansal, J.

(1) Ramesh Kumar has moved this application for bail for the offences punishable under Sections 120B, 420, 468 and 471 Indian Penal Code and Section 5 of Imports and Exports (Control) Act, 1947, read with Section 20 of the Foreign Trade (Development and Regulation) Act, 1992. A complaint dated 8th of October, 1993 has since been filed in Court against the petitioner and two others, by which, the State through Shri Mahesh Chandra, Deputy Director General of Foreign Trade.

(2) Briefly stated, the averments made against the petitioner have been that as per the import policy for the year 1988 to 1991, the registered exporters could get advance import license under the duty exemption scheme for which, detailed procedure for issue of license has been prescribed in Chapter XIX Paras 347 to 358 of Hand Book of Procedure. Further averments made are that M/s. Creative India, through its proprietor Ramesh Kumar submitted an application to the Office of the Joint Chief Controller of Imports & Exports for the grant of an advance import license for importing Stretch Denim Cloth and Velvet Cloth for Cif value of Rs.13,36,335.00 and Rs.11,18,880.00 respectively from M/s. Batshita International, Hongkong and this application was enclosed with a certified copy of the forged export order of M/s. Batshita International, Suite-3/A, Caluxe Building, 8-10, Onlan Street, Central Hongkong, forged past performance certificate of M/s. Creative India issued by M/s. Gupta Mittal & Associates, Chartered Accountants, Treasury Challan for Rs.3683.00 and after considering the said application and its enclosures as genuine, advance import license was issued to M/s. Creative India, New Delhi for import of Stretch Denim Cloth and Velvet Cloth for Cif value of Rs.23,38,367.00 subject, inter-alia, with the condition that the firm shall export gents jackets and jeans made of Stretch Denim and Trousers and jackets made of velvet for Fob value of Rs.39,28,200.00 within a period of nine months from the date of import of first consignment but it was found that the same had not been exported and Ramesh Kumar, after entering into a criminal conspiracy with Ram Dev Puri, imported 62717 sq.mtrs. Stretch Denim and 36868.61 sq. mtrs. Velvet Cloth at Calcutta Port through M/s. Akshoy Kumar Ghosh & Sons of Calcutta and it was found that no custom duty was levied on imported goods worth Rs.23,32,988.00 Cif value. It was also pleaded that Ram Dev Puri in connivance with the petitioner, used to contact Shri Anil Vij, Liaisoning Agent for obtaining Advance Import license and he also helped the petitioner in purchasing the firm M/s. Creative India from Shri R.C. Aggarwal.

(3) Further averments made are that M/s. Creative India, New Delhi imported 150 cartons of Velvet Cloth measuring 36,868.61 sq. mtrs. vide Bill of entry No. 530 dated 7.2.1989 and 856 rolls of blue Stretch Denim cloth measuring 62,717 sq. mtrs. vide Bill of entry No. 268 dated 3.2.1989 for Cif value of Rs.10,62,027.23 and Rs.12,70,960.00 respectively for which, the assistance was rendered by M/s.

A.K.Ghosh & Sons and the whole consignment was transported to Delhi. It was also pleaded that part the goods were stored by the petitioner and R.D. Puri at Kailash Colony and at other unknown places and the same has been disposed of in the open market at premium at Delhi, Ludhina and Amritsar.

(4) Opinion was obtained with regard to the writings and the same has been found to be in the hand of the petitioner by the Government Examiner of Questioned Documents, Shimla and on that basis, complaint has been filed against the petitioner and others. The petitioner was arrested on 17.8.1993 and since then, he is in custody.

(5) I have heard Ms. Maldeep Sidhu, learned Counsel for the petitioner and Mr.S. Lal, learned Counsel for the respondent and have also gone through the record.

(6) Learned Counsel for the petitioner has submitted that the petitioner is a petty shopkeeper, who has been working on payments and-that he has been made as scapegoat. It has also been submitted that R.D. Puri has already been allowed bail and the trial is yet to commence and that all the offences are triable by the Magistrate. A prayer has, therefore, been made for release of the petitioner on bail.

(7) It is the admitted case of the parties that 44 witnesses have been cited in support of this complaint and the evidence is yet to start. R.D. Puri was allowed bail since the challan was not filed against him within 60 days of his arrest. It is, thus, clear that the case is likely to take long and it would be just and proper to release the petitioner on bail.

(8) As a result, I order for the release of the petitioner subject to his furnishing personal bond for Rs.50,000.00 with one surety in the like amount, to the satisfaction of the Court concerned and on further condition that he would not leave the country without the permission of the Trial Court.