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Court : Delhi

Decided On : May-13-2005

Reported in : 120(2005)DLT359; 2005(82)DRJ265

Judge : Badar Durrez Ahmed, J.

Appeal No. : Bail Application 1160/2005

Appellant : Sandeep Garg

Respondent : Commissioner of Customs

Advocate for Def. : Asish Aggarwal and ; Satish Aggarwal, Advs.

Advocate for Pet/Ap. : Alok Krishan Aggarwal,; Anoop Bose and; Gyanendra Agrawal

Judgement :

Badar Durrez Ahmed, J.

1. The learned counsel for the petitioner submitted that the case against the petitioner is that he is alleged to have imported 'meat and bone mealG' which is a prohibited item according to the customs authorities. He is also alleged to have mis-declared the same in the documents submitted at the time of importation including the bill of entry and other related documents. However, the learned counsel for the petitioner submits that what he has imported is not 'meat and bone

mealG' per se but a product called RIGENERA (Fertilizer containing mixture of nitrates and phosphates). He submitted that the packing list shows the imported item as such. The same is the position in the bill of entry and the invoices. The learned counsel took me through copies of the packing list, bill of entry and invoice which are at pages 49, 50 and 51 of the paper book. He also indicated that the petitioner had a registration certificate in Form ' B issued by the authorities permitting him to import NP (Nitrate and Phosphate) Fertilizers and the source of the import is also indicated as Italy. He pointed out that there is a book titled as 'Organic ManuresG' published by Indian council of Agricultural Research, New Delhi in which at page 6 'bone mealG' has been specified.

2. The learned counsel for the petitioner submits that there is a dispute as to whether the product imported by the petitioner is 'meat and bone mealG' or it is 'RigeneraG' containing 'meat and bone mealG'. He further submits that Rigenera by definition contains 'meat and bone mealG' and rigenera has not been prohibited as such.

3. These contentions are controverter by the learned counsel appearing for the Customs Authorities. He submits that the petitioner had earlier also imported 700 metric tonnes of the same product which has been released on furnishing a bond. The learned counsel submitted that the petitioner had imported 'meat and bone mealG' and mis-declared it as fertilizers. Be that as it may, these are disputes which shall be sorted out upon adjudication.

4. The learned counsel for the Customs, however, also submitted that the investigation is still on and there is an allegation of forgery also and the addresses of the persons to whom the earlier consignments were supplied are also not fully known and, thereforee, it will be necessary to keep the petitioner under custody.

5. Keeping in view the submissions made by the learned counsel for the parties, I do not feel that it would be necessary to continue the petitioner in custody inasmuch as he has already been in custody since 13.04.2005 and the last time that the petitioner was interrogated was on 13.04.2005. Furthermore, the learned counsel for the petitioner submits that the petitioner would be more than willing to co-operate with the investigation and would continue to join investigation even

after his release.

6. In these circumstances, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs.50,000/-with one surety of the like amount to the satisfaction of the concerned ACMM. The petitioner shall not leave the country without the permission of the concerned court. The petitioner shall supply complete details with regard to the supplies made by him from the consignment imported earlier.

The application stands disposed of.

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