

Naresh Kumar Seth Vs. Union of India

Naresh Kumar Seth Vs. Union of India

SooperKanoon Citation : sooperkanoon.com/700969

Court : Delhi

Decided On : Dec-20-1991

Reported in : 46(1992)DLT452

Judge : V.B. Bansal, J.

Acts : [Customs Act, 1962](#) - Sections 135(1)

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 1974 of 1991

Appellant : Naresh Kumar Seth

Respondent : Union of India

Advocate for Pet/Ap. : M.C. Bhandare,; R.M. Bagai and; Satish Aggarwal, Advs

Judgement :

V.B. Bansal, J.

(1) Shri Amlesh Choudhary, Intelligence Officer, Directorate of Revenue Intelligence, New Delhi has filed a complaint against Naresh Kumar Seth petitioner for trial for the offence under Sec. 135(1)(b) of the [Customs Act, 1962](#) (hereinafter to be referred to as the Act).

(2) Briefly stated the allegations against the petitioner have been that there was a specific information with the Directorate of Revenue Intelligence that huge quantity

of smuggled gold was stored in the residential premises of the accused being B-242, Derawala Nagar, New Delhi. Accordingly, a surveillance was kept on the said house. On 27th February, 1991 the petitioner was noticed throwing a packet from terrace of his house into the gali on the back side of the premises. The said packet on examination was found to contain 10 foreign marked gold bars of 10 tolas each. A search was conducted of the said premises on which 12 packets were recovered from the store room of the top floor containing 120 gold larges bearing foreign marking of 10 tolas each. The accused had stated that he wanted to get rid of the smuggled gold on account of which he wanted to throw it in the gali and was able to throw only one packet when he was noticed by the officer and so he concealed the remaining 12-packets in the store room. A search was made of the rear side of the house when one packet was recovered which also contained 10 foreign marked gold bars of 10 tolas each. In this way all the gold bars were taken into possession under reasonable belief that they had been smuggled into India and liable to confiscation. Since the petitioner was not in a position to produce any evidence for lawful import acquisition or possession of the same, the petitioner was examined and his statement under Sec. 108 of the Act was recorded on 27th February, 1991 and was arrested on the same day, i.e. 27th February 1991. It is in these circumstances that the complaint was filed.

(3) By way of this application the petitioner has prayed for bail.

(4) It has been submitted by learned Counsel for the petitioner that the petitioner was not in possession of alleged gold, nor had he made a voluntary statement. He has also submitted that the said statement has been recorded after giving threats and beatings to the petitioner which he had retracted at the earliest opportunity. He has also submitted that there has been a delay in the disposal of the case and sufficient time is likely to be spent in concluding the trial and there is no involvement of the petitioner in any other case. He has also submitted that mother of the petitioner had sent a complaint that her son was taken away and nothing was recovered from him. A prayer has, therefore, been made for his release on bail.

(5) The application has been opposed by learned Counsel for the respondent who has submitted that keeping in view the quantity of gold recovered from the petitioner he should not be released on bail.

(6) I have given my thoughtful consideration to these submissions and find that the petitioner has been continuously in custody since the date of his arrest and the case is likely to take sufficient time.

(7) Considering all the facts and circumstances, I am clearly of the view that the case is made out for release of the petitioner on bail.

(8) As result, I order for the release of the petitioner on bail subject to furnishing personal bond for Rs. 1,00,000.00 with two sureties in the like amount each to the satisfaction of the concerned Court. Petition allowed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com