

Neem Dan Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jan-22-1993

Reported in : 1993WLN(UC)43

Judge : M. Kapur, J.

Appeal No. : S.B. Criminal Misc. Bail Application No. 8 of 1992

Appellant : Neem Dan

Respondent : State of Rajasthan

Judgement :

M. Kapur, J.

1. This petitioner is facing trial for the offence under Section 145 of the Customs Act. In brief, the facts are that from one truck No. G.J. 7T-7115 about 94 kg. silver was recovered when it was proceeding from Barmer to Palanpur (Gujarat). The driver of the truck was Nimbaram and Anr. person Bukharam was also sitting in it. These persons were arrested and in their statements they stated that the silver was sent by one Surajdan and Bhimaram and the present petitioner Nimbaram had assisted in loading the silver in the truck.

2. It has been contended that Nimbaram and Bhukaram who were in the truck when the silver was recovered, have been released on bail by the Sessions Judge

and Reliance has been placed on 1991 (R.C.C.) 282.

3. Learned Counsel for the customs Department has contested this application and contended that this petitioner in his statement stated that earlier also he had worked for carrying of gold and silver from one place to another. Reliance has been placed on 1992 Crimes (iii) 928 and 442.

4. Looking to the facts and circumstances of the case and the part attributed to this petitioner it can be said that silver was not recovered from his possession but he had loaded the same in the truck.

5. Considering that the investigation is over and complaint has been filed this petitioner can be released on bail on proper conditions:

6. It is, therefore, ordered that accused petitioner Nimbdan S/o Jagdan be released on bail provided he furnishes a personal bond in the sum of Rs. 20,000/- (Rupees Twenty thousand) with two sureties in the amount of Rs. 10,000/- each to the satisfaction of the trial Court with the stipulation to appear in that Court as and when called upon to do during the pendency of the trial against him in this case, with the conditions that:

(i) petitioner shall not keep any gold or silver or any other smuggled article in his possession:

(ii) He shall not transport any such article:

(iii) he shall not associate himself in any manner with the movement of such articles.

7. Considering the facts it is necessary to look into the order granting bail passed in Nimbaram and Bhukaram's case who were in the truck when the silver was recovered.

8. This order has been passed by Shri Om Prakash Sharma, District and Sessions Judge, Jaipur City Jaipur. After reading the order it appears that while placing reliance on the case of Chandan v. State and Anr. cited above he has not cared to look into the facts and circumstances of the case. In that case it could not be said

that silver had been recovered from the exclusive possession any of the accused. Therefore it is considered proper to issue notice to Nimbaram and Bhukaram as to why the bail granted to them should not be cancelled. These notices should be sent to the Chief Judicial Magistrate Economic Offences Jaipur for the purpose of service on these two persons. They should be directed to appear before court on 9th February, 1993 at the time of the hearing of the case.

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