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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Date of decision: 24<sup>th</sup> April, 2025*

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**CRL.M.C. 2295/2018**

**DIRECTORATE OF REVENUE INTELLIGENCE**

New Delhi

.....Petitioner

Through: Mr. Satish Aggarwala, Sr. Standing  
Counsel.

versus

1. **KIRAN VERMA**  
W/o Shri Umesh Verma  
74 DHL, Moti Nagar,  
Najafgarh Road,  
Delhi.

2. **BHARAT VERMA**  
S/o Shri Umesh Verma  
74, DHL, Moti Nagar,  
Najafgarh Road,  
Delhi.

.....Respondents

Through:

**CORAM:**  
**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**J U D G M E N T (oral)**

1. A Petition under Section 482 Cr.P.C has been filed on behalf of the petitioner for recall of the Order dated 31.01.2018 vide which the



Anticipatory Bail has been granted to Respondents Kiran Verma and Bharat Verma.

2. **Briefly stated**, on 12/13.10.2017 on an input provided by DRI, DZU, Anshul Verma on arrival from Dubai, was intercepted at Chandigarh International Airport, Mohali. During the search from his baggage, two gold rods concealed in the cavity of the machine/tractor parts, which he was carrying, was recovered. One gold chain of 150 gms. was also recovered from his possession. There was thus, a total recovery of 3.03 Kgs of gold of which the market value was ascertained at Rs.83,46,200/-.

3. Statement of Anshul Verma under Section 108 Customs Act disclosed the involvement of other two accused namely Umesh Verma and Prashant Verma. It is a case of conspiracy where 57 Kg. hold had been smuggled, 7 Kg of gold worth market value of 2.01 crores was seized by the Custom Department, while the remaining 50 Kg gold is yet to be recovered.

4. Three persons namely Umesh Verma, Prashant Verma and Yogesh Sabharwal gave their statement under Section 108 Customs Act and were arrested for the offence under Section 135 Customs Act and have been remanded to Judicial Custody, which has been extended from time to time. Their Bail Applications were though rejected by the learned ASJ vide Order dated 23.01.2018.

5. It is submitted that the Respondents Kiran Verma and Bharat Verma filed Application under Section 438 Cr.P.C for grant of Anticipatory bail before learned ASJ, who granted the same vide Order dated 31.01.2018.

6. Further investigation conducted by DRI revealed that number of courier consignments of the machine/tractor parts wherein gold was hidden,



were booked by M/s Bharat Umesh General Trading LLC in Dubai. On many occasions, these consignments were addressed to Yogesh Sabharwal. It was further found that Deepak Verma used to work for Umesh Verma and his son Bharat Verma.

7. The Order dated 31.01.2018 granting Anticipatory Bail to the Respondents is challenged *on the grounds* that the offence involved was of conspiracy, wherein 57 Kg gold had been smuggled. The order granting Anticipatory Bail is bad in law as well as on facts as it was not considered that the remaining 50 Kg of gold is yet to be recovered. Furthermore, the Anticipatory Bail Application itself was not maintainable and premature. The matter was at the crucial stage of enquiry. The arrest of the Respondents herein was not even proposed by the Competent Authority. Unless the Petitioners were able to establish that they were being unnecessarily harassed by the Investigating Agency, there was no case for grant of Anticipatory Bail. Moreover, number of judgments had been relied upon before learned ASJ, which do not find mention in the Order.

8. In Parvinderjit Singh &Anr. vs. State (U.T. Chandigarh) &Anr. 2009 (1) CC Cases (SC) 190, it has been held that the Applicant must show that he has reasons to believe that he would be arrested in a non-bailable offence and the reasons must be founded on reasonable grounds. Mere “fear” is not “belief, whereby Anticipatory Bail could have been granted. Reliance has also been placed on the judgment of Gurbaksh Singh Sibba vs. State (1080) 2 SCC 565.

9. It is further contended that the Department is still making enquiries and conducting investigations. No Order of Notice can be passed in view of the



observations of the Apex Court in Union of India vs. Padam Narayan etc. Criminal Appeal No.1575/2008, wherein the directions issued by the High Court to the Customs Authority that in case the commission of non-bailable offence is made out against the Respondents, they shall not be arrested without ten days prior Notice. It was held that such directions can neither be said to be legal, valid nor in consonance with law.

10. Similar observations have been made in Department of Customs vs. Arvinder Singh in CrI. Misc. (M) No.1710/2002 decided on 30.05.2007, wherein similar directions given by the learned ASJ were set aside. Reliance has also been placed on Kamlesh Sonagela vs. The State of NCT of Delhi & Anr in Bail Application No.2380/2017 decided on 28.02.2018.

11. In the case of Enforcement Officer, TED, Bombay vs. Bher Chand Tikaji Bora 2000 (121) ELT 7 (SC), it has been observed that the invocation of jurisdiction under Section 438 Cr.P.C for grant of Anticipatory Bail is not justified unless the Applicant alleges and establishes that he has been unnecessarily harassed by the Investigating Agency. Reliance has also been placed on Dukhishyam Benupani, Director, Enforcement Directorate (FERA) vs. Arun Kumar Bajoria 1998 CrI. L.J. 841 (SC); Ram Narain Popli vs. CBI 2003 1 Advocates (CrI.) SC 253; K.K., Jerath vs. Union Territory, Chandigarh & Ors. AIR 1998 Supreme Court 1934; Directorate of Enforcement & Anr. vs. P.V. Prabhakar Rao 1997 SCC (CrI.) 978 (SC); State of Andhra Pradesh vs. Bimal Krishna Kundu & Anr. 1997 IV SVLR (CrI.) 51; State of Maharashtra vs. Capt. Buddhlokta Subba Rao JT 1989 (4) SC 1; State of Gujarat vs. Mohanlal Jitmalji Porwal & Anr. AIR 1987 SC 132; Pokar Ram vs. State of Rajasthan & Ors. AIR 1985 SC 969; Sarbajit Singh



&Anr. vs. State of Punjab (1980) 2 SCC 565 (SC) and Balchand Jain vs. State of Madhya Pradesh 1977 Cr.L.J 225 (SC).

12. It is, therefore, contended that the Anticipatory Bail Application was not maintainable in view of the Judgment of the Apex Court in Union of India vs. Hassan Ali decided on 30.11.2011 and other judgment as mentioned above. It is submitted that the Anticipatory Bail Order is, therefore, liable to be set aside.

13. **Submissions heard and record perused.**

14. Essentially, the cancellation/recall of Anticipatory Bail Order dated 31.01.2018 has been sought on two accounts; *firstly*, there was no harassment by the Investigating Agency which merited the Anticipatory Bail Application; *secondly*, mere fear or belief in the absence of real apprehension of arrest, is not sufficient for grant of Anticipatory Bail.

15. The Respondents had sought Anticipatory bail vide their Application dated 25.01.2018 on the ground that DRI officials were calling them time and again for the purpose of investigations relating to the allegations that the Applicant/Kiran Verma's husband, Bharat Verma's, father/Umesh Verma and Others were involved in gold smuggling on the basis of statements made by some persons. Accused Umesh Verma was arrested by DRI on 22.12.2017 and granted Bail on 24.01.2018.

16. The Respondents had contended that they had no role in any of the alleged smuggling activities and the case of the Prosecution was based solely on the statement of the co-accused. Furthermore, no recovery of any incriminating articles, documents or goods from Umesh Verma and the two Respondents had been made. Kiran Verma was a housewife who had no



alleged involvement of smuggling. Likewise, Bharat Verma had recently completed his studies and had no involvement in smuggling. Both the Applicants were not named by any other person and the Anticipatory Bail was thus, sought.

17. The learned ASJ in his detailed Order dated 31.01.2018 had observed that Kiran Verma was a housewife and Bharat Verma was a young boy who had just completed his studies, whose custodial interrogation was not sought. Furthermore, the learned ASJ considered the plea of DRI that there was no imminent apprehension of arrest. It was mentioned that Smt. Kiran Verma had gone to the office of DRI for release of the case property in compliance of Order dated 10.01.2018 passed by learned CMM, but when she reached there, she was harassed and threatened by DRI officials with dire consequences and only some of the articles were released.

18. Furthermore, the DRI in their reply had stated that summons were repeatedly sent for enquiry under Section 108 Customs Act in connection with smuggling of 57 Kg of gold, but the Respondent failed to join the enquiry till date. This aspect was well considered by the learned ASJ to observe that the Respondents assertions established that it was not a mere fear or belief of apprehension without any basis, but the apprehension arose since they had been summoned only on the basis of statements of the co-accused and they could have been arrested; such an apprehension was real and could not be termed as fear or without any basis. Therefore, the Respondent had reasonable grounds of apprehension of being arrested.

19. Furthermore, from the conduct of the DRI, it cannot be stated that there was no apprehension of harassment at their end. The learned ASJ in a well



reasoned Order had considered all the contentions of the DRI before granting the Anticipatory Bail.

20. Merely because the DRI stated that they had no intention to arrest the Respondents, was not sufficient to allay their apprehension of arrest since they were being served with Notices for joining the inquiry.

21. Furthermore, it has been pointed out on behalf of the learned counsel for the Respondent that Complaints have already been filed on 10.10.2019 in these matters in which the Respondents have not been arrayed as accused persons and therefore, the present Petition for cancellation of Anticipatory Bail has become infructuous.

22. There is no merit in the present Application for cancellation/recall of Anticipatory Bail, which is hereby dismissed.

**(NEENA BANSAL KRISHNA)  
JUDGE**

**APRIL 24, 2025**

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