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

+ CRL.M.C. 3283/2018 & Crl.M.A. 11883/2018 & Crl.M.A.
11885/2018

AIR CUSTOMS

.....Petitioner

Through: Mr. Satish Aggarwala, Senior
Standing Counsel & Mr. Gagan,
Advocates

Versus

SANDEEP & ORS.

.....Respondents

Through: Mr. Deepak Nagar, Advocates for
Respondents No.1 & 3

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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14.05.2025

1. The present Petition under Section 482 Cr.P.C. has been filed by the Petitioner challenging the Judgment dated 09.06.2018 passed by the learned Metropolitan Magistrate whereby the Respondents have been granted bail in File No.VIII (AP) to P & I/2024-B/Arrival/2018 on the ground that the learned Court has observed that the offence disclosed is 'bailable'.

2. *Learned Standing Counsel for the Petitioner* submits that there are specific allegations against Respondent No.1 had dealt with and seized gold weighing 3000 gms appraised to Rs.85,28,745/-. In past on four visits, he had also dealt with smuggled gold collectively weighing 8000 gms valuing Rs.2.27 crore.

3. It is submitted that Respondents No. 2 & 3 were also dealing with smuggled gold of 8000 gms valuing Rs.2.27 crores. It is a case of



possession / dealing with 11 kg of smuggled gold having foreign making valued at Rs.3,12,28,745/- by Respondent No.1 with active assistance of Respondents No. 2 & 3. Therefore, the impugned Order dated 09.06.2018 granting Bail to the Respondents deserves to be set aside.

Reliance has been placed on K.I. Pavunny vs. Asstt. Collector, Central Excise, 1997 (90) ELT 241 (SC) and reiterated by the Delhi High Court in Subhash Jain vs. State, Crl. Rev. Pet. No. 261/2007, decided on 14.01.2013, which held that a confessional statement can be made the basis of conviction.

4. In this regard, it is submitted that the Order of Bail is bad since since inception in view of the Apex Court case of Union of India vs. Hasan Ali dated 30.11.2011.

5. *Learned Counsel on behalf of the Respondent* submits that in fact 3 kg of gold was recovered and insofar as allegations of remaining gold is concerned, no such gold was recovered and it is only the submission of the Petitioner.

6. Therefore, in view of recovery of 3 kg of gold, the learned Metropolitan Magistrate has rightly observed that it comes under the category of bailable offence and has rightly granted bail to the Respondents. It is submitted that there is no infirmity in the Bail Order and the present Petition is liable to be dismissed.

7. **Submissions heard and record perused.**

8. The case of the prosecution is that the Respondent Sandeep had been apprehended with 3 kg of smuggled gold of the value of about Rs.85 Lakhs and there was evasion of Customs Duty of Rs.35 Lakhs.

9. Insofar as allegation of remaining 8 kg of gold is concerned, there is



no recovery affected from the Respondents but was mentioned by the Respondents in their statements.

10. The learned Metropolitan Magistrate *vide* impugned Order dated 09.06.2018 has considered the facts and has granted Bail. It is only incidentally mentioned that the offence disclosed is 'bailable', whereas the Bail has been granted considering the entire facts of the present case.

11. Furthermore, the Bail was granted on 09.06.2018 and no circumstance thereafter has been brought fourth for reconsideration of the Bail.

12. There is no infirmity in the impugned Order dated 09.06.2018. The present Petition and pending Application are accordingly dismissed.

NEENA BANSAL KRISHNA, J

MAY 14, 2025/r