

accused person in the previous two FIRs is also involved in the present scam of smuggling along-with others, who are involved in smuggling of the subject consignment. The accused persons prepared fake, forged and fabricated documents for import clearance and re-export thereof and thus committed violation of sections 2(s), 16, 32, 32A, 121, 178 and 157(1) punishable under clauses 8, 9, 89, 14, 14A and 63 of Section 156(1) of the Customs Act, 1969 and related provisions of other statutes and thus applicant and Murtaza Jan Brohi and Wahid Khan were arrested.

4. At the outset learned counsel for applicant inter alia contends that applicant is not owner of consignment, prosecution has failed to place the substantial proof against applicant; minimum punishment is five years; property has been seized; matter is pending for adjudication hence applicant is entitled for bail.

5. In contra, learned Special Prosecutor while opposing the bail application, contends that since ample evidence is available against the applicant, therefore he is not entitled to bail.

6. After hearing the respective parties and meticulous examination of available record it is surfaced that prosecution has arraigned the applicant on the plea that the same mafia who were involved in previous cases would attempt to re-export similar cargo imported actually for smuggling and one such container bearing No.TCNU5918376 which had arrived at Karachi on 11.05.2015 in the name of Essam Enterprises was found to be in the final stage of re-export on account of risk involved with its clearance. The container was examined in the presence of mashirs and resulted in recovery of huge quantity of mobile phones, perfumes, refrigerant gas, cosmetics,

auto parts, soaps, medicines, LED TVs, bubble gums and motor oil etc and cartons were found bearing local names Saleem, Salman, Samad, Khalid, Faheem, Talha, Asim, Rajesh and Muneeb etc. The importer having stated that he had no concern whatsoever with the said import all documents pertaining to import and re-export of the container were found forged, fake and fabricated; applicant is not required for further investigation. It is settled principle of law that while deciding bail application lesser punishment can be considered; there is no likelihood of conclusion of trial in near future and quantum of sentence is yet to be determined by the trial Court, upon culmination of trial. Accordingly, while considering lesser punishment applicant is admitted to post arrest bail subject to furnishing solvent surety in the sum of Rupees one lac and P.R. bond in the like amount to the satisfaction of the trial Court.

Imran/PA

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