

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 43 OF 2019
(Arising out of SLP(CrI.) No.8085/2015)

**SENIOR INTELLIGENCE OFFICER DIRECTORATE OF
REVENUE INTELLIGENCE KOLKATA ZONAL UNIT**

Appellant(s)

VERSUS

SUDESH KUMAR SONTHALIA & ANR.

Respondent(s)

O R D E R

1. Leave granted.
2. Heard the learned counsel for the parties.
3. This appeal has been filed against the judgment and order of the High Court dated 27.2.2015 granting bail to the respondent No.1 for offence punishable under Section 135 of the Customs Act, 1962.
4. The allegations against the respondent No.1 was that he imported gold amounting to 519 kgs and diamond worth 198 carats but instead of using it for manufacturing of articles for export, he diverted those and misappropriated such gold and diamond by selling it in open market and earned huge illegal profit.

5. The High Court taking into consideration the provisions of 127-H of the Customs Act and the medical condition of the respondent as it was noticed by the High Court that since 24.1.2015 i.e. just after three days of his arrest, he was in hospital, bail was granted to the respondent No.1 on 27.2.2015.

6. Mr. Aman Lekhi, ASG and Mr. A.K. Panda, learned senior counsel for the appellant submit that after the grant of bail, the respondent No.1 is not cooperating with the investigation. He refers to the orders of this Court dated 12.9.2017 and 10.10.2017 wherein this Court has noticed the said submission. He further refers to an affidavit dated 10.10.2017 where it was stated that respondent No.1 did not appear before the Kolkata Zonal Unit of DRI on 4.10.2017.

7. Shri Lekhi, learned senior counsel further submits that provision of 127-H were not applicable and the Court committed error in relying on the said provision for grant of bail.

8. Learned counsel appearing for the respondent No.1 fairly submitted that she has not been able to contact the respondent No.1 and she has no information nor she is aware of the present state of affairs and she is unable to make a statement as to whether the respondent No.1 is cooperating in the investigation or not.

9. Learned counsel for the appellant submitted that investigation is not yet complete, due to non-cooperation of the respondent No.1.

10. In view of the fact that the respondent No.1 was granted bail on 27.2.2015 and almost four years have passed since then, liberty is granted to the appellant to move an application for cancellation of bail and if such an application is filed, the same shall be considered and disposed of by the High Court, in accordance with law.

11. The appeal is, accordingly, disposed of. Pending application(s), if any, stand disposed of.

.....J
(ASHOK BHUSHAN)

.....J
(K.M. JOSEPH)

NEW DELHI;
9th JANUARY, 2019

ITEM NO.4

COURT NO.12

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s).8085/2015

(Arising out of impugned final judgment and order dated 27-02-2015 in CRM No.1716/2015 passed by the High Court At Calcutta)

SENIOR INTELLIGENCE OFFICER DIRECTORATE OF
REVENUE INTELLIGENCE KOLKATA ZONAL UNIT

Petitioner(s)

VERSUS

SUDESH KUMAR SONTALIA & ANR.

Respondent(s)

Date : 09-01-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHUSHAN
HON'BLE MR. JUSTICE K.M.JOSEPH

For Petitioner(s) Mr. Aman Lekhi, ASG
 Mr. A.K.Panda, Sr. Adv.
 Mr. Rajiv Nanda, Adv.
 Ms. Aruna Gupta, Adv.
 Mr. B. Krishna Prasad, AOR

For Respondent(s) Mr. Mukul Kumar, AOR
 Ms. Pratiksha Sharma, Adv.
 Mr. Ankit Acharya, Adv.
 M/S. Plr Chambers And Co., AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed
order.

(B.Parvathi)
Court Master

(Renu Kapoor)
Branch Officer

(Signed order is placed on the file)