

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

**SUBJECT : Code of Criminal Procedure, 1973**

Bail Application No.1274/2008

Date of Decision : 15.07.2008

Arun Khanna ..... Petitioner  
Through: Mr.Arun Bhardwaj and Mr.R.K. Chadha,  
Sr. Advocates with Mr.Ramakant Gaur and Mr.Sandeep Banga,  
Advocates for the petitioner.

Versus

Director General of Central Excise Intelligence ..... Respondent  
Through : Mr.Satish Aggarwala, Advocate for the  
respondent.

ANIL KUMAR, J.

The petitioner seeks anticipatory bail by this petition under Section 438 of Code of Criminal Procedure, 1973 in the event of his arrest in respect of Case No. 107/INT/DGCEI/HQ/2007. The petitioner has contended that he is an active Director in M/s.Reema Steels Pvt. Ltd., which company is manufacturing and trading in steel since July 2005. The company of the petitioner is stated to have supplied material/steel ingots to M/s Parmarth Iron Private Limited, Bijnor, Uttar Pradesh, which is also engaged in manufacturing and trading in steel rods. In July 2007, a raid was conducted by the officers of DGCEI at the premises of M/s Parmarth Steel Pvt. Ltd. and M/s Parmath Iron Pvt. Ltd. It is alleged that some incriminating documents were found leading to a raid on the premises of the company of the petitioner as it was one of the suppliers of M/s Parmarth Steel Pvt. Ltd. The plea of the petitioner is that he was summoned by notice dated 10th July, 2007 as a witness in the investigation against M/s Parmarth Steel Pvt.

Ltd., Bijnor, U.P., and he cooperated and appeared before DGCEI officers in response to the summons under Section 14 of Central Excise Act and supplied all the documents required by the investigating officer. The petitioner further asserted that the Accountant, Shri Harish Bhardwaj, was forced to write the statement to implicate the Directors of Parmarth Group. The officials of DGCEI also arrested the Directors of M/s.Parmarth Iron Pvt. Ltd. and the representatives of petitioner were also threatened with dire consequences in case the petitioner does not give any statement against M/s Parmarth Iron Pvt. Ltd. The petitioner has contended that he was mechanically summoned by notices dated 8th August, 2007; 8th October, 2007; 18th October, 2007; 26th October, 2007; 2nd November, 2007; 14th November, 2007 and 12th December, 2007. The petitioner's assertion is that he duly cooperated though he could not appear in the beginning on account of ill health and medical reasons. The petitioner also filed a writ petition before the High Court of Allahabad, however, the petition was dismissed by order dated 11th December, 2007. The application for review of the order dated 11th December, 2007 for expunging some of the remarks made in the said order dated 11th December, 2007 is still stated to be pending. The apprehension of the petitioner which is basis for this present petition, according to him, is that though he has given the statement and produced whatsoever was required off him, the respondents are still giving notices and are coercing to give statement against M/s Parmarth Iron Pvt. Ltd. The petitioner also emphasized on the fact that the Directors of M/s Parmarth Iron Pvt. Ltd., namely, Shri Raj Kamal Aggarwal and Lalit Aggarwal have already been granted bail in the case of evasion of excise duty to the extent of Rs.3.00 crores and another accused having similar allegations against him, namely, Mr.Navneet Jain has been granted bail under Section 438 of Criminal Procedure Code by learned Additional Sessions Judge, Delhi, by order dated 18th January, 2008. After the petitioner filed the present petition, by an interim order dated 10th June, 2008 after hearing the counsel for the respondent, the petitioner was directed to appear before the respondent on 23rd June, 2008 at 11 AM and on every day thereafter as directed by the respondent. An interim anticipatory bail was also granted to the petitioner on his furnishing a personal bond in the sum of Rs.1.00 lakh with one surety of the like amount to the satisfaction of respondent/DGCEI and subject to further conditions that the petitioner surrenders his passport which will be kept in the custody of the respondent and that the petitioner will not travel abroad without prior permission of this court and that the petitioner will continue to appear as and when required by the respondent and cooperate in the investigation. The bail application of the petitioner has been opposed by

the respondent mainly on the ground of the seriousness of the offence, though admitting that the petitioner attended the office of the respondent on 23rd June, 2008 and thereafter on 2nd July, 2008 as per order dated 10th June, 2008 and his statement has been recorded and the presence of the petitioner is no more required by the respondent. Learned counsel for the respondent has also relied on Enforcement Officer, TED, Bombay v. Bher Chand Tikaji Bora, 2000 (121) ELT 7 (SC); Dukhishyam Benupani, Director, Enforcement Directorate (FERA) Vs Arun Kumar Bajoria, 1998 CrL.L.J. 841 (SC); K.K. Jerath v. Union Territory, Chandigarh and Ors., AIR 1998 Supreme Court 1934; Directorate of Enforcement and anr. Vs P.V.Prabhakar Rao, 1997 SCC (CrI) 978 (SC); Shri Gurbaksh Singh Sibba and ors. Vs State of Punjab, (1980) 2 SCC 565 and Sarbajit Singh and anr. Vs State of Punjab, AIR 1980 SC 1632. Learned counsel for the respondent has admitted that after the order dated 10th June, 2008, the petitioner has cooperated with the respondent and his statement has been recorded and he is no more required. This is also admitted that the petitioner has surrendered his passport. This is not disputed that the seriousness of the offence alleged to have been committed by the petitioner is the same as in the case of other Directors of the firm M/s.Parmarth Iron Pvt. Ltd., Bijnor, Uttar Pradesh, who have been granted anticipatory bail which fact has not been controverted by the respondent. After the grant of interim anticipatory bail, the petitioner has not exploited the situation nor has violated the terms of grant of interim anticipatory bail in any manner. Considering the facts and circumstances of the present case, the judgments relied on by the respondent are apparently distinguishable as they do not lay down that in appropriate cases the anticipatory bail cannot be granted considering facts and circumstances of the case. In the totality of facts and circumstances and considering various factors which are material for grant of anticipatory bail, it is apparent that the petitioner is entitled for anticipatory bail and the order granting interim anticipatory bail is liable to be confirmed. For the foregoing reasons, the petition is allowed. In the event of arrest of the petitioner, he be released on bail on his furnishing a personal bond of Rs.1.00 lakh with one surety of the like amount to the satisfaction on respondent/DGCEI. The petitioner has already surrendered his passport, however, the petitioner will not travel abroad without the prior permission of this Court. Even though the respondent has stated that the petitioner is no more required for investigation, the petitioner will appear in case the respondent requires the presence of the petitioner for any further investigation. With these directions, the petition is allowed. Dasti.

Sd/-  
ANIL KUMAR, J.