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# Anup Mittal Vs Govt. of NCT

## Bail Application 463 of 2005

**Court:** Delhi High Court

**Date of Decision:** April 12, 2005

**Acts Referred:**
Customs Act, 1962 â€" Section 135, 135(1), 137, 137(3)

**Hon'ble Judges:** Badar Durrez Ahmed, J

**Bench:** Single Bench

**Advocate:** M. Pinky Anand and Rakesh Mittal, for the Appellant; Satish Aggarwal, for the Respondent

## Judgement

Badar Durrez Ahmed, J.
The learned counsel for the petitioner submitted that there is an allegation that the goods imported by the

petitioner were liable to confiscation on account of mis-declaration, under-valuation and misclassification u/s 135 of the Customs Act, 1962. She

contended that the goods have been seized by the Customs Authorities on 15.02.2005. Though, subsequently, the goods were handed over to the

petitioner on superdari.

2. The learned counsel for the petitioner further relied on the decision of this court in the case of Sita Ram Aggarwal v. Customs 51 AD DHC 451

and particularly on the contents of paragraph 5 thereof which reads as under:

5. Looking at the totality of the circumstances and also the fact that now, in any event, offence u/s 135(1)(a) has been made compoundable, I see

no reason as to why bail should not be granted to the present petitioner. Accordingly, the petitioner be released on bail on his furnishing a personal

bond in the sum of Rs.1 lakh with two sureties of the like amount, subject to the satisfaction of the ACMM, New Delhi with the further condition

that the petitioner shall not leave the country without the prior permission of the concerned court. The application for bail stands disposed of.

3. It is the contention of the petitioner, relying upon the said decision, now that sub-Section (3) has been added to Section 137 of the Customs

Act, 1962, all offences under that chapter can be compounded by the Chief Commissioner of Customs on payment by the person accused of such

compounding amount as may be specified by the rules. The learned counsel for the petitioner submits that the petitioner would be filing an

application for compounding within three weeks.

4. The learned counsel for the Department of Revenue Intelligence opposes the grant of bail in this case inasmuch as he submitted that there has

been evasion of customs duty to the tune of Rs.1.55 crores and investigation is still going on .

5. The learned counsel for the petitioner submitted that the petitioner has been in custody since 16.02.2005 and that there is a machinery provided

under the said Act for the recovery of the evaded amount, if any. Similarly, she contends that the petitioner also has a right of appeal under the said

Act in respect of any decision passed with regard to the confiscation or imposition of customs duty. In any event, she submits that the petitioner

shall be moving an application for taking advantage of the new provision u/s 137(3) of the Customs Act, 1962 within three weeks as indicated

above.

6. In this view of the matter, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs.1 lakh with two sureties

of the like amount to the satisfaction of the learned ACMM, New Delhi.

7. The petitioner shall not leave the country without prior permission of the concerned court. The petitioner shall continue to join investigation as

and when directed by the Investigating Agency in accordance with law.

The application stands disposed of.