

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION {L} NO.1455 OF 2018

Abdul Salaam Mohamed Yasin

.... Petitioner

Vs.

Union of India & Others

.... Respondents

Dr. Sujay Kantawalla with Mr. Anupam Dighe &
Ms Chandni Tanna i/by India Law Alliance for the
Petitioner.

Mr. Pradeep S. Jetly for the Respondents.

**CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : MAY 04, 2018

P.C:

1. The petitioner is aggrieved and dissatisfied with the fact that the imported goods have not only been seized but together with such seizure and before the law was set in motion, the bank accounts are also frozen.

2. The grievance of the petitioner is that the bank accounts are with respondent Nos.3, 4, 5, 6 and 7 bankers.

3. The second respondent is the Directorate of Revenue Intelligence ("DRI" for short).

4. The petitioner was arrested by this second respondent on the allegation that he purportedly misdeclared the country of origin, description and value of the goods imported. The details of the consignment imported, Bills of Entry, etc., are set out in para 4 of the petition. Then he was served with summonses by the DRI. He appeared in pursuance thereof but he was arrested pursuant to an arrest memo, the details of which as well are provided.

5. The allegation is that the petitioner is the proprietor of M/s. Industrial Pipes and Tubes which has evaded Anti-Dumping Duty amounting to Rs.2,08,87,134/-. The petitioner applied for being enlarged on bail and thereafter that application was rejected by the Competent Criminal Court. Another application was preferred in the Court of Sessions and the Court of Sessions has granted the relief claimed, namely, release on bail.

6. Then the petitioner prayed that the seized goods be released provisionally at least. A letter was issued on 13-2-2018 under which the petitioner was allowed to take away the seized goods but with some conditions. In the meanwhile, the petitioner's bank accounts have been attached.

7. On the previous occasion, a statement was made that the earlier communication cannot be treated as a provisional release order. Hence, we granted time to Mr. Jetly to take instructions.

8. On instructions, Mr. Jetly states that the Competent Authority has passed an order dated 3-5-2018 approving the provisional release of the goods but by imposing conditions.

9. We say nothing about this order or its merit and the contentions in that regard are kept open. We are aware that the petitioner can challenge this order in appropriate proceedings, including an appeal. Hence, insofar as this order is concerned, the petitioner does not seek any alternate relief in writ

jurisdiction.

10. However, the petitioner is aggrieved and dissatisfied with the continued freezing of his bank accounts while it is true that a provisional release order is passed but the goods are not released. The goods would not be released until the petitioner complies with the terms and conditions of the provisional release order. Therefore, the goods continue to be under seizure. If the goods are under seizure and merely because a provisional release order is passed, we do not see any justification for continuation of the attachment of the petitioner's bank accounts. We have not been shown any legal provision enabling the official to go ahead and together with the seizure of the goods/imported consignment and simultaneously attach the bank accounts. This presupposes that the liability to pay the duty is admitted and equally the evasion. Far from it, there is a dispute and the authorities have to act in accordance with law and if they have passed an order that does not mean that the petitioner cannot challenge it or must accept it. The petitioner has his own remedies to challenge that order. Merely because

that order determines some amount as due and payable, that by itself and without anything more, cannot justify the continued attachment of the bank accounts.

11. In the circumstances, we direct that the attachment levied on the bank accounts be raised forthwith but without prejudice to the rights and contentions of the respondents to proceed and recover the duty allegedly evaded in accordance with law. We clarify that we have not exonerated the petitioner from any criminal liability nor have we expressed any opinion insofar as the merits of the provisional release order. All contentions of both sides in that regard are kept open.

12. A copy of the provisional release order dated 3-5-2018 is taken on record and marked "X" for identification.

13. The writ petition is allowed with the above directions but with no order as to costs.

(PRAKASH D. NAIK, J.)

(S.C. DHARMADHIKARI, J.)