

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 194 OF 2022

Fahim Ibrahim Waghoo

.Petitioner

Vs.

Union of India & ors.

.Respondents

Ms Priyankar Lolchande i/b. Mr. Deepak Singh, Advocate, for the
Petitioner

Mr. Shriram Shirsat, Advocate, for the Respondent Nos. 1 & 2

Mr. Jitendra B. Mishra a/w Mr. Dhananjay B. Deshmukh, Advocate,
for the Respondent Nos. 3 & 4

Ms M. H. Mhatre, APP, for the Respondent No. 5 – State

CORAM : NITIN JAMDAR AND
N. R. BORKAR, JJ.

DATE : 19 AUGUST 2022

P. C.

. Heard learned counsel for the parties.

2. By this Petition, the Petitioner is seeking the following
relief :-

*(a) That, this Hon'ble Court may be pleased
to issue any appropriate Writ, Order or
direction quashing and setting aside the
impugned order of detention bearing No. Pd-
12001/39/2019 - COFEPOSA dated
12.07.2019 issued by Respondent No. 2*

against the Petitioner, with consequential reliefs.”

3. Reply-affidavit is tendered on behalf of Respondent Nos. 3 & 4. It is tendered today on behalf of the Directorate of Revenue Intelligence. Reply filed by Respondent Nos. 1 & 2 is already on record. The Learned Counsel for Respondent Nos. 3 & 4 has brought to our notice the order passed by the Division Bench of Delhi High Court dated 24 December 2020 which reads thus :-

“ **ORDER**
24.12.2020

Learned counsel for the petitioner submits that the address furnished by the petitioner in the writ petition is the same at which the show cause notice under Section 154 of the Customs Act, 1962 was issued to the petitioner and accepted by the petitioner. Learned counsel further states that during the pendency of this petition another notice under the Smugglers and Foreign Exchange Manipulators Act, 1976, has also been issued to the petitioner at the same address and served on the petitioner.

On the other hand, Mr. Ravi Prakash, learned counsel submits that whenever an endeavour is made to serve the Detention Order upon the petitioner at the said address, he has not been found. He submits that proceedings under Section 7(1)(a) and 7(1)(b) of the COFEPOSA Act also been initiated against the petitioner since he is not found at the said address despite efforts. He further submits

that Look Out Circular (LOC) has also been issued against the petitioner on 12.3.2020.

Learned counsel for the petitioner seeks leave to withdraw this petition.

Learned counsel for the petitioner submits that the petitioner shall raise all his pleas in the eventuality of his being detained in terms of the detention order.

The petition is hereby dismissed as withdrawn.”

The order is self explanatory. The Petitioner had withdrawn the Petition with liberty to raise all his pleas in the eventuality of his being detained in terms of the detention order. It is an admitted position before us that the Petitioner is not yet detained. According to the Respondents, the Petitioner is absconding. Therefore, the Petition as filed cannot be considered and is disposed of.

(N. R. BORKAR, J.)

(NITIN JAMDAR, J.)