

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

293

CWP-11659-2023

RAJU BHAI PATEL

... Petitioner

VERSUS

UNION OF INDIA AND ORS

... Respondents

A N D

298

CWP-12613-2023

Date of Decision: 24.08.2023

ZALA NARENDRASINGH HARUBHA

... Petitioner

VERSUS

UNION OF INDIA AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Sarim Naved and Ms. Amrita Garg,
Advocate for the petitioner(s).

Mr. S.P. Jain, Addl. Solicitor General of India with
Mr. Gaurav Pathak, Central Govt. Counsel for
the respondents-U.O.I.

Ms. Anju Sharma Kaushik, DAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

A batch of two writ petitions is being decided by a common order as similar controversy is involved in these petitions and counsel for the parties agree that these petitions can be decided together. For the facility of reference, the facts are being noticed from CWP-11659-2023.

The prayer in the present petition is for issuance of directions to the respondents to release the seized amount i.e. Rs.1,58,75,050/- belonging to the petitioner.

Counsel for the petitioner contends that the petitioner is in the business of courier service under the name and style of “M/s Patel Kanu Bai Kanti Lal & Co.” having its office in New Delhi alongwith GST registration and all other compliances. On 23.12.2021, a bomb explosion had taken place in the Court Complex, Ludhiana and investigation in the matter was taken over by the National Investigating Agency by registering an FIR No.RC-01/2022/NIA/DLI under Sections 302, 307, 124-A & 120-B of the IPC 1860, Sections 13, 15, 16 and 18 of the Unlawful Activities (Prevention) Act, 1967, Sections 3, 4 and 5 of Explosive Substances Act, 1908 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984. During the course of investigation the premises of the petitioner located at Chandni Chowk, New Delhi were raided by the Investigating Team on 21.02.2023 and the abovesaid cash amount was taken into possession by the said team. The abovesaid amount had been deposited by various clients of the petitioner with them. Even though it was alleged that no seizure memo was prepared at the spot or at the time of conducting of the raid nor any such order has been passed under Section 25 of the Unlawful Activities (Prevention) Act, 1967 confirming to such seizure or allowing its retention within 48 hours, however, the respondents acted in violation of law.

Notice was issued to the respondents, whereupon the Addl. Solicitor General of India has entered appearance on behalf of respondents No.1 to 4. Learned Addl. Solicitor General of India has informed this Court that the seizure of the property was done after preparation of a seizure memo, which stands submitted with the Special Court, Mohali on 22.02.2023. It is contended that the petitioners may, if so advised, move an appropriate application before the Special Court for release of the said money. He further submits that they

have already informed about the abovesaid recovery to the Department of Income Tax and appropriate proceedings in accordance with law may be undertaken by the said Department pertaining to the recovery of the cash amount.

In view of the aforesaid statement made by the learned Addl. Solicitor General of India on behalf of respondents No.1 to 4, learned counsel for the petitioner(s) does not press the instant petitions at this stage so as to approach the Special Court, Mohali for seeking release of the above mentioned amount seized by respondent No.3.

Disposed of as not pressed at this stage with the liberty as aforesaid.

Needless to mention that in the event of the petitioner moving any such application before the Special Court, Mohali, an expeditious decision shall be taken up thereupon after affording an opportunity of hearing to the respective parties.

Photocopy of this order be placed on the file of another connected case.

AUGUST 24, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No