

ORDER SHEET

WPO/501/2024

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SHRI AKASH KUMAR SINGH AND ANR.
VS
THE COMMISSIONER OF CUSTOMS (PREVENTIVE),
KOLKATA AND ORS.

BEFORE:

The Hon'ble JUSTICE RAJA BASU CHOWDHURY

Date : July 15, 2024.

Appearance:

Mr. Arijit Chakrabarti, Adv.

Mr. Nilotpal Chowdhury, Adv.

Mr. Deepak Sharma, Adv.

...for the petitioner

Mr. Aryak Dutt, Adv.

Mr. Soumen Bhattacharjee, Adv.

...for the respondent no.4

(Union of India)

Mr. Bhaskar Prasad Banerjee, Adv.

Aishwarya Rajyashree, Adv.

...for the Customs Authority

The Court: Affidavit-of-service filed in court today be kept with the records.

The present writ application has been filed, *inter alia*, challenging the order/notice of seizure dated 30th March, 2024 issued under Section 110 of the Customs Act, 1962 (hereinafter referred to as the said Act). It is the petitioners' case that the petitioners in terms of provisions contained in Section 110A of the said Act had applied for provisional release of the vehicle

bearing registration no.WB-19J/8614. Despite the application for provisional release being filed on April 23, 2024, such application is yet to be disposed of.

Mr. Chakrabarti, learned advocate appearing on behalf of the petitioners, submits that during pendency of the aforesaid application, the mobile phones which had also been seized and are detailed in the seizure notice/order under serial nos. 3 and 4 have since been returned to the petitioners. It is submitted that unless appropriate direction is passed by this Court directing the authorities to dispose of the petitioners' application for provisional release of the vehicle, the petitioners shall suffer irreparable loss, injury and/or prejudice.

Mr. Banerjee, learned advocate appearing on behalf of the respondents, has, however, submitted that since the certification of the aforesaid vehicle is pending before the learned jurisdictional Magistrate, Bankshall Court, the prayer of the petitioners can only be considered once, such certification of the inventory in terms of Section 110(1B) of the said Act is made.

Having heard the learned advocates appearing for the respective parties and having considered the materials on record, I find that the petitioners on 23rd April, 2024 have filed the application for provisional release of the vehicle bearing registration no.WB-19J/8614. Admittedly, such application has not been disposed of. Although, it has been submitted on behalf of the respondents that the delay in disposal of the said application is by reason of the certification required to be done by the learned jurisdictional Magistrate, I find that the respondents have chosen not to communicate the same to the

petitioners. Even today, no particulars of any proceedings pending before the learned jurisdictional Magistrate has been disclosed. In view thereof, I direct the respondent no. 2 to dispose of the petitioners' prayer for provisional release by passing a reasoned order upon giving an opportunity of hearing to the petitioners and/or their representatives within a period of two weeks from the date of communication of this order.

With the above observations and directions, the writ application stands disposed of.

There shall be no order as to costs.

Since no affidavits have been called for, the allegations made in the petition are deemed not to have been admitted by the respondents.

(RAJA BASU CHOWDHURY, J.)