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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 333/2023**

SUNIL KOTHIWAL

.....Petitioner

Through: Mr. Moninder Singh, Sr. Advocate
with Mr. Dinhar Takiar, Ms. Aekta
Vatts, Ms. Anuprita Kaur, Ms.
Harshita Takiar & Mr. Yash Singh,
Advocates.

versus

**THE COMMISSIONER EXICISE ENT AND LUXURY TAX
DEPARTMENT**

.....Respondent

Through: Mr. Amol Sinha, ASC, Crl. with Ms.
Kshitiz Garg & Mr. Ashvini Kumar,
Advocates for State.
S.I. Sunita, PS IGI Airport, Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

17.09.2024

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1. The present Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of the petitioner seeking directions to the respondent to release the security deposit in the form of FDRs i.e., of Rs. 17,00,000/- and Rs. 21,50,000/- with interest till date and discharge the surety in compliance of the Order dated 05.01.2015 passed by the respondent in Case No. Con. 2886/2014/1860-64. Also, to release the vehicles i.e., Mercedes Benz and BMW confiscated in compliance Order dated 05.01.2015 passed by the respondent in Case No. Con. 2886/2014/1860-64.

2. It is submitted that the petitioner along with Ajab Singh was



simultaneously apprehended by the Excise Intelligence Bureau Official and Police Official of IGI Airport, Delhi on 03.05.2014 in their respective cars i.e., Mercedes Benz and BMW with the impermissible quantities of liquor recovered from both the vehicles. FIR No. 147/2014 registered under Section 33 of the Delhi Excise Act, 2009 at Police Station IGI Airport, Delhi.

3. The petitioner then applied for Plea Bargaining under Section 265B of Cr.P.C., 1973 before the National Lok Adalat in this FIR. The plea of the petitioner was accepted and the National Lok Adalat *vide* Judgment and Order on Sentence dated 12.03.2022 convicted the petitioner and sentenced him to undergo imprisonment for a period which has already undergone with a fine of Rs. 5,000/-, in default, one month simple imprisonment.

4. **Learned Senior Advocate on behalf of the petitioner** submits that the fine amount has been deposited and the confiscated liquor has been destroyed. When the petitioner approached the respondent for release of the FDRs, the same has been denied by stating that there is no such provision for return of the security amount deposited against the said two vehicles.

5. **Learned Additional Standing Counsel on behalf of the respondent** has referred to Section 61 of the Delhi Excise Act which provides for confiscation of the conveyance used in committing of any offence. He, therefore, submits that the FDRs cannot be released since the cars are still in possession of the petitioner.

6. **Submissions heard.**

7. Admittedly, the petitioner in plea bargaining has been convicted and sentenced by the National Lok Adalat *vide* Judgment and Order on Sentence dated 12.03.2022 to undergo imprisonment for a period which has already



undergone in custody with a fine of Rs. 5,000/-, in default, one month simple imprisonment.

8. Moreover, the confiscated liquor has been destroyed. The vehicles were released on *superdari* to the petitioner. The learned Metropolitan Magistrate, National Lok Adalat *vide* Judgment and Order on Sentence dated 12.03.2022 has already directed that all the belongings of the petitioner which have been seized, be returned to him.

9. In view of above, the petitioner is entitled to release of the FDRs as the offence has been adjudicated in the National Lok Adalat.

10. The present petition is disposed of in the aforesaid terms.

NEENA BANSAL KRISHNA, J

SEPTEMBER 17, 2024
S.Sharma