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

+ **W.P.(C) 4531/2024**

REZA MORADI

.....Petitioner

Through: **Mr. Pramod Kant Saxena, Advocate**

versus

UNION OF INDIA & ANR.

.....Respondents

Through: **Ms. Arunima Dwivedi, CGSC with
Ms. Pinky Pawar, Advocate for UOI**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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29.11.2024

1. The Petitioner, an Iranian National, has filed the instant petition seeking directions to the Respondents to issue him exit permit in order for him to leave for his country, Tehran.
2. The Petitioner came to India sometime in 2019, and was arrested in Custom case bearing No. 2581-A/2019 at IGI Airport, New Delhi on 24th September, 2019. He was released on bail on 27th September, 2019.
3. Thereafter, with the permission of Court, the Petitioner travelled back to Tehran for a temporary visit, and then returned to India on 13th May, 2022 on a Tourist visa. Subsequently, his visa expired on 16th July, 2022.
4. The Petitioner then filed W.P.(C) 5283/2023 against confiscation of the seized gold in the Customs case. In the said proceedings, the Petitioner was apprised of the adjudication order dated 03rd December, 2021 whereby the following directions were issued by the Additional Commissioner of



Customs:

“i) I deny the free allowance to the Noticee on account of various omission and commission discussed above;

*ii) I order **absolute confiscation** of the seized goods i.e., gold total weighing **600 Gms** having Tariff value of **Rs. 21,14,016/-** (Rupees Twenty-One Lakh Fourteen Thousand Sixteen Only) recovered from Noticee and seized under Panchnama dated 25.09.2019, under Section 111(d), 111(i), 111(j), 111(1), 111(m) & 111(0) of the Customs Act, 1962;*

*iii) I impose a **penalty of Rs. 4,23,000/-** (Rupees Four Lakh Twenty-Three Thousand only) upon the Noticee, for his acts of smuggling of gold weighing 600 Gms, under Section 112(a), Section 112(b) and 114AA of the Customs Act, 1962.*

*iv) I confirm the duty demand of Customs Duty amounting to **Rs. 16,27,792/-** (Rupees Sixteen Lakh Twenty-Seven Thousand Seven Hundred and Ninety-Two only) on the **1200 Gms** Gold valued at **Rs 42,28,032/-** from the Noticee, for his acts of smuggling of gold weighing 1200 Gms during his last two visits, under Section 28(4) of the Customs Act, 1962.*

*v) I also impose a **penalty of Rs. 16,27,792/-** (Rupees Sixteen Lakh Twenty-Seven Thousand Seven Hundred and Ninety-Two only) upon the Noticee, for his acts of smuggling of gold weighing 1200 Gms during his last two visits, under Section 114A of the Customs, Act, 1962.”*

5. A perusal of the aforesaid order makes it amply clear that the gold seized from the Petitioner has already been confiscated, and penalties have also been imposed on him.

6. In light of the above development, the aforementioned writ petition was disposed of on 25th July, 2023 with the following directions:

“The order of 11 May 2023 passed by the Court had taken notice of the stand taken by the respondents. Subsequently and pursuant to the liberty so granted, Ms. Bhatnagar, learned counsel representing those respondents has also placed additional documents on the record and which include the notices issued for personal hearing as well as the copy of the order in original.

In view of the aforesaid, a prayer was made by learned counsel for the petitioner to be accorded the liberty to pursue the alternative remedy which exists.

Acceding to that request, the writ petition shall stand disposed of with liberty as aforesaid being reserved.”



7. Thereafter, the Petitioner applied for an exit permit on 16th October, 2023, however, his application was closed on 10th January, 2024 on account of non-production of No Objection Certificate from the concerned Trial Court.

8. During the pendency of the present proceedings, on the Court's specific directions, Ms. Arunima Dwivedi, CGSC for the Respondents, received instructions, which have been noted in order dated 21st October, 2024 in the following terms:

"1. Ms. Arunima Dwivedi, CGSC for Respondents, on instructions, states that in peculiar circumstances presented by Petitioner, as an exception, Respondent No. 2 is willing to consider the issue an exit permit to Petitioner without imposition of any penalty charges. However, Petitioner must also have similar No-Objection Certificate from Department of Customs in respect of case bearing No. 2581-A/2019.

2. It is noticed that Department of Customs is not a party. Accordingly, Commissioner of Customs, (IGI Airport), Delhi is impleaded as Respondent No.3. Let amended memo of parties be filed within one week from today.

3. Ms. Dwivedi, states that she also represents the Department of Customs and accepts notice on behalf of the newly impleaded party. Accordingly, she is requested to raise this issue before the Commissioner of Customs, (IGI Airport), Delhi to issue appropriate directions after due consideration.

4. Re-notify on 19th November, 2024."

9. In view of the aforementioned order, it is clear that the Foreigners Regional Registration Officer¹ is inclined to grant exit permit to the Petitioner without imposition of penalty charges. However, FRRO had called upon the Petitioner to secure a No Objection Certificate from the Department of Customs.

10. In light of the above, Ms. Dwivedi had been directed to take

¹ "FRRO"



appropriate directions from the Customs Department. She informs that she has repeatedly corresponded with the Customs Department, however, no response has been received from them.

11. Be that as it may, there is presently no criminal prosecution against the Petitioner, as asserted by his counsel. There is no embargo on his travel under any order issued by a Court of law. In such circumstances, there is no basis for restricting the Petitioner from exiting the Country. The Petitioner has already been released on bail in the Customs case, and has also undertaken travel subsequent to the bail order. Furthermore, considering the fact that FRRO is also inclined to waive off the penalty charges in the peculiar facts of the case, the Petitioner can be permitted to exit the country.

12. Accordingly, directions are issued to FRRO to issue exit permit to the Petitioner within a period of two weeks from today.

13. A copy of the order be also conveyed to the Customs Department so that they can issue necessary directions to the FRRO, if so required.

14. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 29, 2024/ab