



2025:DHC:1659-DB



\$~46

* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 10th March, 2025*+ **W.P.(C) 2957/2025, CM APPL. 14010/2025 & CM APPL. 14011/2025****AMAL KRISHNA**

.....Petitioner

Through: Mrs. Kavitha KT, Mr. Subash Chandran, Mr. Sharat Gopal, Mr. Syam Krishnan, Mr. Akash Awana, Ms. Pinal Pandagare and Mr. Sakti Chaurvedi, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Ankit Kumar, Adv.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE RAJNEESH KUMAR GUPTA****Prathiba M. Singh, J. (ORAL)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner-Amal Krishna under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ for setting aside the order dated 7th November, 2024 passed by the Assistant Commissioner of Customs, Terminal-3, Indira Gandhi International Airport, New Delhi (*hereinafter, the 'adjudicating authority'*) by which, the adjudicating authority has seized the Petitioner's gold chain weighing 28 grams, valued at Rs. 1,76,488/-.
3. A brief background of the present case as stated in the petition is that



the Petitioner was travelling from the United Arab Emirates (‘UAE’) to India to participate in a marriage ceremony in Kerala. The Petitioner arrived at the Indira Gandhi International Airport on 9th April, 2024. However, as soon as the Petitioner reached the airport, he was intercepted and the Petitioner’s jewellery *i.e.* a gold chain weighing 28 grams was seized by the concerned Custom officials.

4. It is the case of the Petitioner that the said jewellery has been worn by him for his personal use and the same was confiscated by the Custom authorities while he was crossing the green channel.

5. It is further stated in the petition that the Petitioner submitted a statement to the concerned Custom officials dated 9th April, 2024 and thereafter sent a letter dated 20th May, 2024 providing details of the detained jewellery items as also highlighting that the Petitioner is an eligible passenger under the Baggage Rules, 2016. However, the adjudicating authority passed the impugned order thereby seizing the jewellery of the Petitioner.

6. Issue notice. Ms. Narain, Id. Sr. Standing Counsel accepts notice.

7. The Court has perused the impugned order passed by the adjudicating authority. The same is extracted for a ready reference:

“i) I deny the ‘Free Allowance’ if any, admissible to the Pax Amal Krishna for not declaring the detained goods to the Proper Officer at Red Channel as well to the Customs Officer at Green Channel who intercepted him and recovered the detained goods from him.

ii) I declare the passenger, Amal Krishna, is an “eligible Passenger” fo the purpose of the Notification No.50/2017-Customs dated 30.06.2017 (as amended) read with Baggage Rules, 2016 (as amended)



iii) *I order confiscation of the “One gold chain having purity 929, weight 28 grams, valued at Rs.1,76,488/-” recovered from the Pax Amal Krishna and detained vide DR No. “DR/INDEL4/10.04.20:14/52546” dated 10.04.2024 under section 111(d), 111(j) and 111(m) of the Customs Act, 1962;*

iv) *I give an option to redeem, the goods confiscated, above, on payment of fine of Rs.25,000/- (Rupees Twenty Five Thousand Only) under Section 125 of the Customs Act, 1962 and allow the same for re-export from India only by the Pax since the Pax is a holder of valid "Residency permit card ID No. 784-1996-3924636-4, Issuing date 16.02.2024, Expiry date 15.02.2026 issued by United Arab Emirates". I allow redemption of the detained goods within 120 days of issue of this order under Section 125(3) of the Customs Act, 1962). The redemption is allowed after the completion of legal formalities in this regard and also on fulfillment of any regulatory clearances/ approvals/ payments, as required. The offer of redemption, if accepted, shall be subject to condition that the Passenger shall not dispute the identity and valuation of the goods. The offer of redemption shall cease after 120 days of the receipt of this order.*

v) *I also impose a penalty of Rs.18,000/- (Rupees Eighteen Thousand Only) on the Pax Amal Krishna under section 112(a) and 112(b) of the Customs Act, 1962.”*

8. The impugned order *inter alia* holds that the passenger is an **eligible passenger** in terms of the **Notification No. 50/2017-Customs** dated 30th June, 2017 (as amended) read with Baggage Rules, 2016 (as amended). Further, the Petitioner is permitted to redeem the gold chain by paying a fine of Rs. 25,000/- and incurring an additional penalty of Rs. 18,000/-. In addition, Rs.



250/- per day is being sought as warehousing charges for the gold.

9. The impugned order also records that no show cause notice and personal hearing was sought by the Petitioner. The relevant portion of the impugned order recording the same is extracted hereinunder for a ready reference:

“DISCUSSIONS & FINDINGS

*8. I have carefully gone through the facts of the case and considered the submissions/ admissions made by the Passenger in his statement dated 10.04.2024., **The Pax has also requested waiver of Show Cause Notice and Personal Hearing vide letter dated 20.05.2024 and after accepting his request, I proceed to adjudicate the case.**”*

10. Ld. Counsel for the Petitioner submits that the gold chain of the Petitioner has been worn regularly by him and the same ought to be returned to the Petitioner. The same are part of his *personal effects*.

11. A photograph of the Petitioner wearing the said jewellery has been placed on record. The wedding card of the Petitioner, showing the date of marriage as 21st April, 2024 has also been placed on record. A perusal of the photograph along with the wedding card would itself show that the Petitioner is a *bona fide* passenger who was travelling to India to attend a wedding ceremony.

12. It is not in dispute as has been recorded by the adjudicating authority that the Petitioner himself is a UAE resident with a proper resident ID. The gold chain has been valued at Rs. 1,76,488/-.

13. The Petitioner being a non-resident is fully entitled to the benefit provided to an eligible passenger under the Baggage Rules, 2016. The goods constitute personal effects of the Petitioner and could not have been seized in



the manner the Custom authorities have.

14. This Court has now pronounced several orders/judgments, following various judgments of the Supreme Court and this Court, wherein it has been held clearly that if the gold items seized are personal jewellery, the same would not be liable to be confiscated. The few orders/judgments passed by this Court in this regard are as under:

- ***Nathan Narayanswamy v. Commissioner of Customs, [Delhi High Court, W.P.(C) 6855/2023 dated 15th September, 2023]***
- ***Farida Aliyeva v. Commissioner of Customs, (2024:DHC:9533-DB).***
- ***Rahul Vattamparambil Remesh v. Union Of India & Ors. (2025:DHC:1444-DB).***

15. Moreover, in the present case, a show cause notice has not been issued to the Petitioner and no personal hearing has been afforded.

16. The waiver of show cause notice and personal hearing is not in accordance with law as held recently in several judgments, including the following: -

- (i) ***Amit Kumar v. The Commissioner of Customs (2025: DHC:751-DB)***
- (ii) ***Mr. Makhinder Chopra v. Commissioner of Customs, New Delhi, (2025: DHC:1162-DB)***
- iii) ***Mohamed Shamiuddeen v. Commissioner of Customs & Ors. (2025: DHC:1079-DB).***

17. The impugned order dated 7th November, 2024 passed by the adjudicating authority is accordingly quashed. No penalty or redemption fine shall be collected from the Petitioner. No warehousing charges shall also be



2025:DHC:1659-DB



liable to be collected from the Petitioner. The charges, if any, already deposited shall be refunded to the Petitioner.

18. The gold item of the Petitioner seized by the Custom officials in the present case, may be released within two weeks to the Petitioner, or any authorised representative after verifying their identity.

19. The petition is disposed of. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 10, 2025
dj/rks