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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4371/2025**

RAHUL KHOTANI

.....Petitioner

Through: Mr. Ravi Rathore, Ms. Richa Kumari,
Mr. Maroof Khan, Mr. Yatin Bhutani
& Mr. Pawan, Advs.

versus

COMMISSIONER OF CUSTOMS

.....Respondent

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

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **07.04.2025**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Rahul Khotani under Article 226 of the Constitution of India *inter alia* seeking release of the gold chain weighing 100 grams of the Petitioner seized by the Respondent- Commissioner of Customs *vide* Detention Receipt No. 4777 dated 7th July 2024 (New Detention Receipt Nos. 43676 and 36206 dated 7th October 2024 and 7th November 2024 respectively) (hereinafter, '*detention receipt*')
3. According to the Petitioner, he arrived at the IGI Airport, New Delhi on 7th July, 2024 by flight no. SG-12 and one gold chain of the Petitioner was seized by the Customs Department after a detention receipt.
4. The case of the Petitioner is that the gold chain which was seized by the Customs Department is an old gold chain owned by him for the last 8 to 10 years. Further, no show cause notice has also been issued till date in this matter. Hence, the Petitioner prays for release of the gold chain.
5. Ld. Counsel for the Respondent submits that a statement under Section



108 of the Customs Act, 1962 was given by the Petitioner at the time of detention of the gold chain. The Petitioner in the said statement stated that the said gold chain does not belong to him. Since there is a discrepancy, Id. Counsel submits that the Petitioner may appear before the Customs Department and the identity, etc., would be verified and subject to the said verification, the gold chain shall be released.

6. The statement under Section 108 reads as under:

*“On being asked, I, Mr. Rahul Khotani (DOB:- 10.10.1985) state that I have appeared before Air Customs Superintendent on 06.07.2024 to tender my voluntary statement under Section 108 of the Customs Act, 1962 in respect of above mentioned items recovered from my possession. On being asked, I state that I was intercepted by the Customs Officer after I had crossed the Green Channel and during the scanning of my baggage and DFMD, the above said item has been recovered from me. **On being asked, I state that the above mentioned recovered item does not belong to me.** I admit my omission and commission on my part; that I am well aware of the fact that there is Customs duty on import of above Goods; that I will be agreeing with the description, quantity and value to be assessed by the department, and I am ready to pay the Customs duty along with fine and penalty as applicable. I also do not need any Show Cause Notice or personal hearing in the matter. I have tendered my statement true and correct and understood the same. I have tendered the above statement without any duress, pressure or threat.”*

7. The Court has perused the matter. The above statement appears to have been given in a situation where the Petitioner had just arrived at the Airport and there may have been some confusion even in recording of the same.

8. Once the goods are detained, it is mandatory to issue a show cause



notice and afford a hearing to the Petitioner. The time prescribed under Section 110 of the Customs Act, 1962 is a period of six months and subject to complying with the formalities, a further period of six months extensions can be taken by the Customs Department for issuing the show cause notice. In the present case, it is noticed that there is no show cause notice within the first six months period. Further, no extension has been obtained or intimated to the Petitioner as per the submissions made today.

9. The Petitioner prays for release of the gold chain in his favour.

10. Let the Petitioner appear before the Customs Department. After verification of his credentials and the fact that the gold chain is a personal effect of the Petitioner, the Customs Department shall release the gold chain subject to payment of storage charges.

11. If the Customs Department is not satisfied that the gold chain is of a personal effect, then after hearing the Petitioner, a proper Order-in-Original shall be passed.

12. Petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

APRIL 7, 2025

Rahul/Ck