$~44

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

\+ **W.P.(C) 4938/2025 & CM APPL. 22670/2025**

GANGA GOPAL .....Petitioner

Through: Mr. Narender Singh, Advocate.

versus

COMMISSIONER OF CUSTOMS .....Respondent

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

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% **21.04.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 22670/2025 (exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 4938/2025

3. The present petition has been filed by the Petitioner- Ganga Gopal under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ directing the Respondent- Commissioner of Customs to release the personal jewellery *i.e.* diamond necklace detained by the Respondent *vide* Detention Receipt No. 40475 dated 3rd April 2025 (hereinafter, '*detention receipt*').

4. The case of the Petitioner is that he is a resident of Doha, Qatar and he had travelled to India for the wedding of his son. The Petitioner had purchased a diamond necklace for the said wedding and the invoice in respect thereof

has also been placed on record. The same was detained by the Customs Department on 03rd April, 2025 upon issuance of a detention receipt, when he had travelled to India on the ground that customs duty would be liable to be paid on the said necklace.

5. The Petitioner being a foreign resident and considering the fact that it was only one piece of jewellery which was being carried for a wedding, it would clearly constitute a *personal effect*. The Petitioner is also willing to re-export the said diamond necklace.

6. Considering the decisions in ***Directorate of Revenue Intelligence v. Pushpa Lekhumal Tolani, (2017) 16 SCC 93*** passed by the Supreme Court as also the decisions of this Court in ***Nathan Narayansamy v. Commissioner of Customs, [W.P.(C) 6855/2023, decided on 15th September, 2023], Farida Aliyeva v. Commissioner of Customs, [W.P.(C) 16113/2024, decided on 10th December, 2024]***, ***Mohammad Zaid Salim v. The Commissioner of Customs (Airport & General), [W.P.(C) 2595/2019, decided on 4th September, 2023]***, the Court has clearly held that the personal jewellery, which is owned by the passenger, would not be liable to be confiscated and detained.

7. Further, in ***Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB*** this Court has discussed various issues arising in several cases where the goods have been detained from a tourist by the Customs Department, including the issue of personal jewellery being part of personal effects under the Baggage Rules, 2016 (hereinafter, '*Baggage Rules*'). The relevant extract of the order dated 19th February, 2025 in ***Makhinder Chopra (supra)*** is as under:

> *"17. A conspectus of the above decisions and*

provisions would lead to the conclusion that ***jewellery that is bona fide in personal use by the tourist would not be excluded from the ambit of personal effects as defined under the Baggage Rules.*** *Further, the Department is required to make a distinction between 'jewellery' and 'personal jewellery' while considering seizure of items for being in violation of the Baggage Rules."*

8. In view of the above discussion, the detained diamond necklace of the Petitioner would constitute a personal effect under the Baggage Rules.

9. Accordingly, the Customs Department is directed to release the diamond necklace to the Petitioner for the purposes of re-export within one week.

10. The Petitioner or his authorised representative shall approach the Customs Department in the Warehouse at the Indira Gandhi International Airport, New Delhi and after verifying the credentials, the release shall be given.

11. The storage charges shall be paid by the Petitioner.

12. The petition is disposed of accordingly. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

APRIL 21, 2025/*PB/ck*