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* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **W.P.(C) 7214/2024**

SHISHANK GUPTA .....Petitioner

Through: Dr. Vivek Bhardwaj and Dr. Pinki Singh, Advs. (M: 9811260570)

versus

UNION OF INDIA AND ANR. .....Respondents

Through: Mr. Abdhesh K. Chaudhary, CGSC with Ms. Geetanjali Sethi, Adv. for R-1.

Mr. Arun Khatri, SSC with Ms. Anoushka Bhalla, Adv. for R-2. (M: 9871548122)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

O R D E R

% 06.02.2025

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Articles 226 and 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 seeking issuance of an appropriate writ directing the Respondent No. 2 - Commissioner of Customs, IGI Airport, New Delhi for release of the gold jewellery seized from the Petitioner.

3. The matter was taken up on 20th May, 2024 and since the Respondents were duly represented on the said date, the Court had directed the Respondents to file their counter affidavits within six weeks. However, no counter affidavit has been filed by the Respondents till date.

4. A perusal of the writ petition would show that the Petitioner who is an Indian citizen had arrived in India on *Flight No. AI-381* on 29th April, 2024 from Singapore. The Petitioner was stopped by the Customs officials at the airport and thereafter a search was conducted of his belongings. The Customs officials recovered and detained the following two items from the Petitioner, as per the detention receipt dated 29th April, 2024:

i) one yellow metal kada and

ii) one yellow metal chain.

5. The case of the Petitioner is that no show cause notice has been issued in this matter till date, and the time period prescribed under Section 124 of the Customs Act, 1962, has already lapsed. Accordingly, the Petitioner seeks release of the detained jewelleries. Hence, the present petition.

6. Ld. Counsel for the Petitioner relies upon the bill issued by M/s Sita Ram Jewellers, Ghaziabad, Uttar Pradesh, to show that the two items detained by the Customs were purchased in June of 2022 and December of 2022 and that the same belonged to the Petitioner. The Petitioner has also placed on record photographs of different time periods to show that the detained articles were being worn by the Petitioner as personal jewellery.

7. The Court has perused the matter. Clearly, the photographs on record show with the time stamp, that the two jewellery items are the personal effects of the Petitioner. The Petitioner is an Indian citizen. The weight of these items is also not unusual. The yellow metal kada weighs about 39 gms and the yellow metal chain weighs about 80 gms. The invoices of purchase have also been placed on record.

8. There was no occasion for the Customs officials to detain these goods inasmuch as they were being worn by the Petitioner as part of his personal

jewellery. This Court has already opined in ***Qamar Jahan vs. Union of India, 2025:DHC:174-DB,*** that the Baggage Rules of 2016 are required to be re-looked by the Central Board of Indirect Taxes and Customs, considering the price of gold, which has increased over the years.

9. In any event in the present case, the Petitioner is an Indian resident and an Indian citizen is entitled to wear personal jewellery while travelling abroad and returning to India. The detained articles constitute personal effects and personal jewellery which would not be liable for confiscation in terms of the decision of the Supreme Court in ***Directorate of Revenue Intelligence vs. Ms. Pushpa Lekhumal Tolani, (2017) 16 SCC 93.***

10. In any event, the Petitioner has also proved on record that the detained jewellery items were purchased by the Petitioner in 2022 from India itself. Under such circumstances, the detained articles are not liable to be confiscated or detained by the Customs Department. The show cause notice also having not been issued till date, the detention of the seized articles is untenable.

11. Accordingly, the Petitioner's writ petition is allowed. The detained jewellery be released to the Petitioner without charging any fee or penalty.

12. If the detained jewellery has been disposed of by the Customs Department, then the equivalent value of 119 gms in monetary terms, as per the market rate of gold, on the date of this order, shall be paid to the Petitioner within a period of 30 days. If there is any delay in the said payment, then interest @ 6% per annum would also be liable to be paid after the expiry of the period of 30 days. The Petitioner would personally collect the gold items.

13. The writ petition is allowed in the above terms. Pending applications, if any, are also disposed of.

14. *Dasti*.

PRATHIBA M. SINGH, J

DHARMESH SHARMA, J

FEBRUARY 6, 2025/*gunn/ms*