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

\+ W.P.(CRL) 2637/2025, CRL.M.A. 24950/2025

RAMESH DISALE .....Petitioner

Through: Mr. Rajdeep Bhattacharya, Advocate.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Subodh Kumar Kaushik, SPC with Ms. Chhaya Sharma, Advocate for R-1.
Mr. Amlan Das and Ms. Ritika Sharma, Advocates.

\+ W.P.(CRL) 2638/2025, CRL.M.A. 24951/2025

RAMESH DISALE .....Petitioner

Through: Mr. Rajdeep Bhattacharya, Advocate.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Subodh Kumar Kaushik, SPC with Ms. Chhaya Sharma, Advocate for R-1.
Mr. Amlan Das and Ms. Ritika Sharma, Advocates.

**CORAM:**
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**<u>O R D E R</u>**

**% 22.08.2025**

1. The present petitions filed under Article 226 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Sauraksha

Sanhita, 2023[1] are directed against the seizure of gold from one Mrs. Ujawala M. Chavan under Sections 110 and 123 of the Customs Act, 1962 and the subsequent issuance of show cause notice dated 3rd March, 2025, *inter alia* against the Petitioner. Since both petitions arise from the same impugned proceedings, this Court deems it appropriate to dispose of the petitions by way of a common order.

2. The facts, in brief, are that 2,166 grams of allegedly smuggled gold were seized from one Mrs. Ujawala M. Chavan while she was travelling on a train on 6th June, 2024. In her statement recorded by the Respondent Authorities, Mrs. Chavan stated that the said gold had been given to her partly by the Petitioner and partly by her husband. Based on this disclosure, repeated summons were issued to the Petitioner to appear before the Superintendent of Customs (Preventive & Intelligence), Commissionerate of Customs (Preventive), Kolkata. However, the Petitioner failed to comply with the summons and was also not found at his residential premises. In view of the Petitioner's non-cooperation during the course of investigation and his alleged involvement in the smuggling of gold, a show cause notice was issued to him, calling upon him to explain why penalty under Section 112(b)(i) of the Customs Act should not be imposed on him.

3. Aggrieved, the Petitioner has filed the instant petitions, seeking the following reliefs:

3.1. In W.P.(CRL) 2638/2025: a direction for release of the seized gold to its lawful owner, Mr. Rajendra Bapusaheb Patil, through the Petitioner; and

3.2. In W.P.(CRL) 2637/2025: quashing of the impugned show cause notice and all consequential proceedings emanating therefrom.

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[1] "BNSS"

4. The case of the Petitioner is that the seized gold belongs to one Mr. Rajendra Bapusaheb Patil (Respondent No. 3). In support of this contention, the Petitioner relies upon the income tax returns for Assessment Year 2024-25 and a purchase invoice, which according to the Petitioner, establish the lawful ownership of Mr. Patil. It is submitted that these documents were ignored by the Respondent Authorities while issuing the impugned show cause notice.

5. It is further contended that the statement of Mrs. Ujawala Chavan, on which the Respondent Authorities primarily rely, is inconsistent, as she subsequently referred to a different source and location of the gold. Such contradictions, according to the Petitioner, undermine the credibility and evidentiary value of her statement. On this basis, it is urged that the continued retention of the seized gold is unsustainable and contrary to the mandate of Section 110 of the Customs Act.

6. The matter is presently at a preliminary stage, only a show cause notice stands issued. Judicial review at this stage is sparingly exercised, and confined to cases where the notice is *ex facie* without jurisdiction, vitiated by patent illegality, or issued in bad faith. The Supreme Court has repeatedly emphasised that writ petitions challenging show cause notices ought not to be entertained where the objections raised pertain to matters of defence or involve disputed questions of fact which fall within the domain of the competent authority. The limited exception is where the notice is demonstrably without jurisdiction or the proceedings are rendered a nullity. Viewed thus, the grounds urged by the Petitioner relating to the ownership of the seized gold, the credibility of the third-party statement, and the effect of Section 110 of the Customs Act, are quintessentially factual defences to

be adjudicated by the statutory competent authority. This is reinforced by Section 123 of the Customs Act, which places a burden of proof on the person concerned to explain lawful possession. The Petitioner, it is stated, has already filed a detailed reply to the notice; it would therefore be apposite to require the adjudicating authority to consider that reply on its own merits, afford a personal hearing, and render a reasoned order in accordance with law, uninfluenced by any observation herein. All rights and contentions are kept open to be urged before the authority and, if necessary, in further proceedings.

7. The prayer for release of the seized gold also cannot be granted the present juncture. The issue of release is inextricably linked to the determination of lawful ownership and possession, questions that lie at the heart of the pending adjudication. Until the competent authority has examined the rival claims and rendered its findings, it would be premature for this Court to intervene under Article 226. The Petitioner must, therefore, pursue the adjudicatory process in the manner contemplated under law.

8. For the reasons aforesaid, the reliefs sought in these petitions cannot be entertained at this stage. The petitions are, accordingly, disposed of, along with all pending applications, without expressing any opinion on the merits. All rights and contentions of the parties are reserved to be urged before the adjudicating authority and, if occasion arises, in further proceedings, as per the statute.

9. Dismissed.

**SANJEEV NARULA, J**

**AUGUST 22, 2025**/*nk*