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

Reserved on: 27.01.2026
Pronounced on: 27.02.2026

\+ W.P.(CRL) 923/2022
SHRI VINOD KUMAR PATHROR .....Petitioner
Through: Mr. Arvind Kumar Sharma, Sr. Adv. with Mr.Aniteja Sharma and Mr. Arijit Singh, Advs.

versus

UNION OF INDIA AND ANR. .....Respondents
Through: Mr. Amit Tiwari, CGSC with Mr. Ayush Tanwar, Ms. Ayushi Srivastava and Mr. Arpan Narwal, Advs. for UOI.
Mr. Aditya Singla, SSC, CBIC with Mr. Shreya Lamba, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

NAVIN CHAWLA, J.

1. The present Writ Petition has been filed under Article 226 of the Constitution of India, seeking the quashing of the detention order bearing F. No. PD12002/02/2017- COFEPOSA dated 02.01.2018, issued by the Joint Secretary to the Government of India, COFEPOSA Unit, Central Economic Intelligence Bureau in the Department of

Revenue, Ministry of Finance, Government of India (hereinafter referred to as the 'impugned order') under Section 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (hereinafter referred to as the 'COFEPOSA Act'), by which the petitioner was ordered to be detained and kept in Tihar Jail, New Delhi.

2. The petitioner has also challenged the order dated 12.12.2019 passed by the learned Chief Metropolitan Magistrate (CMM), Patiala House Courts, New Delhi in Case no. 14556/2018, titled ***Customs v. Vinod Kumar Pathror***, declaring the petitioner as a Proclaimed Offender pursuant to proceedings initiated under Section 7(1) (a) of the COFEPOSA Act.

3. The challenge to the detention order is admittedly at the pre-execution stage, as the petitioner has not been taken into custody pursuant to the impugned order.

CASE OF THE RESPONDENTS

4. The background of the present petition is that the Director General of Foreign Trade (DGFT), Ministry of Commerce issues licenses to exporters under various schemes as an incentive to them for making exports and increasing the quantum of the same. The licenses are also called "scrips" and carry a monetary value. The scrips can be utilized for payment of customs duty or for the import of any item which is in the Open General List (OGL), that is, freely importable. These scrips are also tradable commodities by themselves in accordance with the applicable policy.

5. It is the case of the respondents that on 09.09.2015, during a scrutiny of licenses/scrips, certain discrepancies were detected between the data maintained by the DGFT and the Customs Electronic Data Interchange (EDI) system. An alert was thereafter inserted in the system in respect of certain parties and Custom House Agents (CHAs). Upon further scrutiny, it was gathered that the licenses/scrips issued by the DGFT were fraudulently amended to enhance their value after being registered against the actual value. These licenses were mainly used by various importers of paper by utilizing the services of one common CHA, namely M/s Kirti Cargo.

6. On the basis of the material gathered during investigation, summons dated 15.09.2015 were issued to Shri Ramesh Chadha, Proprietor of M/s Kirti Cargo, one Shri Sharafat Hussain, and the petitioner herein.

7. Several summons were thereafter issued to the petitioner on various dates, calling upon him to appear during the course of investigation, however, the petitioner failed to appear. A search was also conducted at the residential premises of the petitioner, wherein though no incriminating materials were found, the petitioner was not present at his premises, and upon asking the whereabouts of the petitioner from his family members, the wife and father of the petitioner informed the officers that the petitioner has not been residing with them for very long.

8. It is further the case of the respondents that in the course of investigation, it was gathered that the petitioner had obtained

unauthorised and illegal access to the Customs EDI system by using login credentials of Customs officers and had tampered with the value of genuine licenses/scrips already registered in the system, which were later on utilized for payment of customs duties. It is further alleged that one Shri Sharafat Hussain was involved in facilitating the financial transactions relating to the utilisation of such scrips, and that funds were routed through various entities. The role attributed to the petitioner is that he was a part of the conspiracy and used to receive funds from the company of Shri Sharafat Hussain into the shell companies floated by the petitioner.

9. Multiple Demand-cum-Show Cause Notices were issued to the petitioner herein between January 2016 and January 2020, calling upon him to respond to the allegations and participate in the proceedings, however, the petitioner neither responded to the said notices nor appeared before the concerned officers for investigation.

10. Thereafter, a complaint dated 02.12.2015 was filed under Sections 174 and 175 of the Indian Penal Code (IPC), 1860 for non-compliance with the summons by Shri Sharafat Hussain and the petitioner. The learned Additional Chief Metropolitan Magistrate (ACMM) issued summons dated 02.02.2016 directing the petitioner to appear in person on 15.03.2016. However, the petitioner herein neither appeared nor responded to the summons.

11. The matter was further referred to the Directorate General of Vigilance (DGOV) and other agencies and details of petitioner's alleged role were forwarded to the Directorate of Revenue Intelligence

(DRI) for issuance of a Look Out Circular. Since the petitioner was not appearing and cooperating in the investigation, a red alert was issued against the petitioner.

12. Thereafter, an FIR bearing No. 0151/2016 dated 19.09.2016 was registered by the Cyber Crime Cell against the petitioner and Shri Sharafat Hussain. An arrest warrant was issued by the learned Chief Metropolitan Magistrate (CMM) on 29.09.2016, which could not be executed as the petitioner could not be traced out.

13. *Vide* order dated 04.05.2017, the petitioner was declared a Proclaimed Offender by the learned ACMM in the said criminal proceedings, and a Look Out Circular dated 12.10.2017 was also issued. Thus, on the basis of the material placed before the detaining authority, the impugned order dated 02.01.2018 was passed.

14. The impugned order could not, however, be executed as the whereabouts of the petitioner could not be traced. In view of the non-execution of the impugned order, proceedings under Sections 7(1)(a) of the COFEPOSA Act were initiated for issuing process under Section 82 to 85 of the Code of Criminal Procedure (CrPC), 1973, and by order dated 12.12.2019, the petitioner was declared a Proclaimed Offender and the said order was published in the newspaper.

15. The alleged manipulation and utilisation of licences/scrips is stated to have resulted in a loss to the government exchequer estimated at approximately Rupees 73.55 crores, involving a large number of scrips registered at ICD Tughlakabad.

16. It is in this factual context that the impugned detention order came to be passed, and upon its non-execution, statutory proceedings were initiated against the petitioner.

PRELIMINARY OBJECTIONS OF THE RESPONDENTS:

17. The learned counsel appearing for the respondents opposes the present petition and submits that the same is not maintainable in law, as the petitioner has sought to challenge the detention order dated 02.01.2018 at the pre-execution stage. It is submitted that the settled position of law does not permit a proposed detenue, who has evaded execution of the detention order, to invoke the extraordinary jurisdiction of this Court as a matter of course.

18. It is further submitted by the learned counsel for the respondents that only because execution of the detention order could not be effected, one who is absconding cannot be allowed to take advantage of non-execution of the detention order and challenge the detention. The idea of a preventive detention order is to safeguard, and this Court cannot invoke its Writ jurisdiction in favour of a person who himself is evading the law. Reliance is placed on a judgment of this Court in ***Mohd. Nashruddin Khan v. Union of India & Ors.,*** 2020: DHC:2742:DB.

19. The learned counsel for the respondents, by placing reliance on a judgment of this Court in ***Pawan Gupta v. Union of India & Anr.***, 2024:DHC:7969: DB, submits that a person who has deliberately avoided execution cannot be permitted to invoke the doctrine of snapping of live and proximate link to contend that the order has

become stale on account of delay. He further contends that where the delay in execution is attributable to the conduct of the proposed detenue and proceedings under Section 7 of the COFEPOSA Act have been duly initiated, the detention order cannot be assailed at the pre-execution stage.

20. By placing reliance on the judgment of the Supreme Court in ***Subhash Popatlal Dave v. Union of India***, (2012) 7 SCC 533, the learned counsel for the respondents contend that a person who has absconded or evaded execution of a detention order cannot be heard to contend that the detention order has become stale on account of delay, as such an argument would amount to permitting the law-breaker to take advantage of his own wrong.

21. The learned counsel for the respondents further submits that the reliance placed by the petitioner on the decision in ***Additional Secretary to the Govt. of India & Ors. v. Smt. Alka Subhash Gadia & Anr.***, 1992 SUPP (1) SCC 496 is misplaced. It is urged that while the said judgment recognises limited exceptions permitting pre-execution interference, the present case does not fall within any of those narrowly carved exceptions, as the detention order is neither passed for a wrong purpose nor suffers from lack of jurisdiction or non-application of mind.

22. The learned counsel for the respondents further submits that the detention order was passed by the competent authority, namely, the Joint Secretary to the Government of India, duly empowered under Section 3(1) of the COFEPOSA Act, after arriving at a subjective

satisfaction on the basis of sufficient and relevant material placed before him by the sponsoring authority. It is contended that the detention order was passed strictly in accordance with law and for the specific purpose of preventing the petitioner from indulging in prejudicial activities affecting the economic security of the country.

23. It is further submitted by the learned counsel for the respondents that the justifiability or sufficiency of the material forming the basis of the detention order, cannot be examined at the pre-execution stage, particularly when the detention order is yet to be served upon the petitioner. It is urged that permitting such a challenge would amount to testing the subjective satisfaction of the detaining authority prematurely, which is impermissible in law.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

24. The learned counsel for the petitioner submits there has been an inordinate delay in the execution of the detention order, as a result of which the order has lost its very purpose as a measure of preventive detention. Further, the respondent authorities have failed to demonstrate what effective and bona fide steps were taken to trace the petitioner and secure execution of the detention order.

25. By placing reliance on decisions in ***Subhash Popatlal Dave v. Union of India & Anr***., (2012) 7 SCC 533; ***Abhishek Gupta v. Union of India & Ors.***, 2022: DHC:1963-DB and ***Alka Subhash Gadia*** (supra), he contends that the courts have necessary power and have time and again interfered in pre-execution stage of the detention order, where the courts are *prima facie* satisfied of limited grounds as set out

in the above referred judgments. It is submitted by the learned counsel for the petitioner that the present case squarely falls within the recognised exceptions permitting pre-execution interference as laid down, particularly in the view that the impugned detention order does not mention anything about allegation of scrips that is alleged on the petitioner and only mentions that petitioner is prevented from abetting smuggling goods informer.

26. It is contended by the learned counsel for the petitioner that the impugned detention order passed against the petitioner is dated 02.01.2018 and whereas the respondent authorities have filed an application under Section 7(1)(a) of the COFEPOSA Act on 11.09.2018, that is, after a considerable delay of about 9 months and respondent authorities have failed to explain the same.

27. The learned counsel for the petitioner submits that apart from invoking proceedings under Sections 82 and 83 of the Cr.P.C., the respondent authorities failed to take any diligent steps to execute the detention order. Placing reliance on a decision in ***A. Mohammed Farooq v. Joint Secretary to the Government of India.***, (2000) 2 SCC 360, it is submitted by the learned counsel for the petitioner that unless the delay in execution is satisfactorily explained, the detention order is liable to be set aside.

28. It is submitted by the learned counsel for the petitioner that in the similar facts arising from this case and similar detention order, one of the co-accused, namely, Farha Hussain, was also served with the detention order. This Court by its judgment in ***Farha Hussain v.***

Union of India & Ors., 2018:DHC:3621-DB, had set aside the detention order, observing that respondent authorities had no legal justification in passing the detention order in regard to the acts committed as they do not observe any fraudulent activity which can result into a detention order. He further submits that this Court in ***Farha Hussain (supra)*** held that there could be no tampering with the system and as such the allegations against the accused do not hold the ground.

29. The learned counsel for the petitioner reiterates that the detention order is liable to be set aside on account of unexplained delay in its execution, as such delay snaps the live and proximate link between the alleged prejudicial activities and the necessity for preventive detention, thereby converting the detention from preventive to punitive in character.

30. The learned counsel for the petitioner submits that this conduct raises a serious doubt as to whether the respondent authorities were genuinely pursuing execution of the detention order. He submits that the preventive detention is premised on immediacy and urgency, and where the authorities themselves fail to act promptly, the subjective satisfaction underlying the detention order stands vitiated.

31. The learned counsel for the petitioner further submits that the subsequent invocation of Section 7(1)(a) of the COFEPOSA Act, alleging that the petitioner was absconding or concealing himself, was mechanical. It is contended that resort to proclamation proceedings under Sections 82 and 83 of the CrPC, without first exhausting

reasonable and effective steps to serve the detention order, is arbitrary and unsustainable in law.

32. The learned counsel for the petitioner contends that the maintainability of a Writ petition challenging a detention order prior to execution or surrender stands settled by the Constitution Bench decision in ***Alka Subhash Gadia*** (supra), wherein the Supreme Court held that Article 22 of the Constitution does not restrict the powers of the High Court under Article 226 to judicially review a detention order even at the pre-execution stage.

33. It is further submitted by the learned counsel for the petitioner that, the mere fact that the petitioner has been declared a Proclaimed Offender, does not bar the maintainability of the present Writ petition, as a proclamation order cannot eclipse constitutional remedies where the foundational detention order itself is under challenge.

ANALAYSIS/ CONCLUSION

34. We have considered the submissions made by the learned counsels for the parties.

35. The issue before us is, as to whether we should entertain the present petition, which challenges the impugned order of detention at a pre-execution stage.

36. As far as the jurisdiction of the Court to entertain a challenge to a preventive detention order prior to its execution is concerned, the law is now well settled inasmuch as the Supreme Court has repeatedly held that, though there is no complete bar on the exercise of such jurisdiction, the general principles that govern the exercise of such

jurisdiction would still be applicable, including those of self-restraint of a Court to come to the aid of a person who is absconding from the law. In this regard, useful reference may first be made to the judgment of the Supreme Court in ***Alka Subhash Gadia*** (supra), wherein the question of law as to whether the detenue or anyone on his behalf is entitled to challenge the detention order without the detenue submitting or surrendering to it and, if so, then what are the grounds on which the detention order can be challenged, was considered. The Supreme Court held that while the High Court under Article 226 of the Constitution of India has the power to test the validity of an order of preventive detention, it must observe certain limitations while exercising such jurisdiction. These limitations are self-imposed as a matter of prudence, propriety, policy, and practice. The Court held as under: -

> *"30. As regards his last contention, viz., that to deny a right to the proposed detenu to challenge the order of detention and the grounds on which it is made before he is taken in custody is to deny him the remedy of judicial review of the impugned order which right is a part of the basic structure of the Constitution, we find that this argument is also not well merited based as it is on absolute assumptions. Firstly, as pointed out by the authorities discussed above, there is a difference between the existence of power and its exercise. Neither the Constitution including the provisions of Article 22 thereof nor the Act in question places any restriction on the powers of the High Court and this Court to review judicially the order of detention. The powers under Articles 226 and 32 are wide, and are untrammelled by any external*

restrictions, and can reach any executive order resulting in civil or criminal consequences. However, the courts have over the years evolved certain self-restraints for exercising these powers. They have done so in the interests of the administration of justice and for better and more efficient and informed exercise of the said powers. These self-imposed restraints are not confined to the review of the orders passed under detention law only. They extend to the orders passed and decisions made under all laws. It is in pursuance of this self-evolved judicial policy and in conformity with the self-imposed internal restrictions that the courts insist that the aggrieved person first allow the due operation and implementation of the concerned law and exhaust the remedies provided by it before approaching the High Court and this Court to invoke their discretionary extraordinary and equitable jurisdiction under Articles 226 and 32 respectively. That jurisdiction by its very nature is to be used sparingly and in circumstances where no other efficacious remedy is available. We have while discussing the relevant authorities earlier dealt in detail with the circumstances under which these extraordinary powers are used and are declined to be used by the courts. To accept Shri Jain's present contention would mean that the courts should disregard all these time-honoured and well-tested judicial self-restraints and norms and exercise their said powers, in every case before the detention order is executed. Secondly, as has been rightly pointed out by Shri Sibal for the appellants, as far as detention orders are concerned if in every case a detenu is permitted to challenge and seek the stay of the operation of the order before it is executed, the very purpose of the order and of the law under which it is made will be frustrated since such

orders are in operation only for a limited period. Thirdly, and this is more important, it is not correct to say that the courts have no power to entertain grievances against any detention order prior to its execution. The courts have the necessary power and they have used it in proper cases as has been pointed out above, although such cases have been few and the grounds on which the courts have interfered with them at the pre-execution stage are necessarily very limited in scope and number, viz., where the courts are prima facie satisfied (i) that the impugned order is not passed under the Act under which it is purported to have been passed, (ii) that it is sought to be executed against a wrong person, (iii) that it is passed for a wrong purpose, (iv) that it is passed on vague, extraneous and irrelevant grounds or (v) that the authority which passed it had no authority to do so. The refusal by the courts to use their extraordinary powers of judicial review to interfere with the detention orders prior to their execution on any other ground does not amount to the abandonment of the said power or to their denial to the proposed detenu, but prevents their abuse and the perversion of the law in question.

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34. In the present case, admittedly the proposed detenu is absconding and has been evading the service of the detention order. Respondent 1 who is his wife has sought to challenge the said order because the show-cause notice under sub-section (1) of Section 6 of the SAFEMA is issued to him, a copy of which is also sent to her. Thus the assistance of the High Court under Article 226 of the Constitution is sought by respondent 1 on behalf of the detenu to secure the order of detention with a view to defend the proceedings under the SAFEMA. In other words, the proposed detenu is trying to secure

> *the order of detention indirectly without submitting to it. What is further, he is also trying to secure the grounds of detention as well as the documents supporting them which he cannot get unless he submits to the order of the detention. No prima facie case is made out either before the High Court or before us for challenging the order of detention which would impel the Court to interfere with it at this pre-execution stage. Unfortunately, the High Court disregarding the law on the subject and the long settled principles on which alone it can interfere with the detention order at this stage has directed the authorities not only to furnish to the detenu the order of detention but also the grounds of detention and the documents relied upon for passing the detention order……."*

37. In ***Subhash Popatlal Dave*** (supra), the Supreme Court clarified that the five exceptions that had been carved out in the judgment in ***Alka Subhash Gadia*** (supra), were not intended to be exclusive as far as the challenge to a detention order at a pre-execution stage is concerned. However, by a ratio of 2:1 (Justice Gyan Sudha Misra and Justice Chelameswar), it was held that though the preventive detention order can be challenged beyond the five grounds which have been enumerated in the case of ***Alka Subhash Gadia*** (supra), a detenue who has absconded, cannot be allowed to challenge the said order at the pre-execution stage taking advantage of the long lapse of time for which it remained unexecuted. We may quote from the opinion of Justice Gyan Sudha Misra, as under:-

> *"14. From the ratio of the aforesaid authoritative pronouncements of the Supreme Court which also includes a Constitution*

Bench judgment having a bearing and impact on the instant matters, the question which emerges is that if the order of detention is allowed to be challenged on any ground by not keeping it confined to the five conditions enumerated in the case of ***Alka Subhash Gadia*** *except the fact that there had been sufficient materials and justification for passing the order of detention which could not be gone into for want of its execution, then whether it is open for the proposed detenue to contend that there is no live link between the order of detention and the purpose for which it had been issued at the relevant time. In the light of ratio of the decisions referred to hereinabove and the law on preventive detention, it is essentially the sufficiency of materials relied upon for passing the order of detention which ought to weigh as to whether the order of detention was fit to be quashed and set aside and merely the length of time and liberty to challenge the same at the pre-execution stage which obviated the execution of the order of preventive detention cannot be the sole consideration for holding that the same is fit to be quashed. When a proposed detenue is allowed to challenge the order of detention at the pre-execution stage on any ground whatsoever contending that the order of detention was legally unsustainable, the Court will have an occasion to examine all grounds except sufficiency of the material relied upon by the detaining authorities in passing the order of detention which legally is the most important aspect of the matter but cannot be gone into by the Court as it has been allowed to be challenged at the pre-execution stage when the grounds of detention has not even been served on him.*

15. Thus, if it is held that howsoever the grounds of detention might be weighty and sustainable which persuaded the authorities to pass the order of detention, the same is fit to

be quashed merely due to long lapse of time specially when the detenue is allowed to challenge the order of detention even before the order of detention is served on him, he would clearly be offered with a double-edged weapon to use to his advantage circumventing the order of detention. On the one hand, he can challenge the order of detention at the pre-execution stage on any ground, evade the detention in the process and subsequently would be allowed to raise the plea of long pendency of the detention order which could not be served and finally seek its quashing on the plea that it has lost its live link with the order of detention. This, in my view, would render the very purpose of preventive detention laws as redundant and nugatory which cannot be permitted. On the contrary, if the order of detention is allowed to be served on the proposed detenue even at a later stage, it would be open for the proposed detenue to confront the materials or sufficiency of the material relied upon by the authorities for passing the order of detention so as to contend that at the relevant time when the order of detention was passed, the same was based on non-existent or unsustainable grounds so as to quash the same. But to hold that the same is fit to be quashed merely because the same could not be executed for one reason or the other specially when the proposed detenue was evading the detention order and indulging in forum shopping, the laws of preventive detention would surely be reduced into a hollow piece of legislation which is surely not the purpose and object of the Act.

16. Therefore, in my view, the order of detention is not fit to be quashed and should not be quashed merely due to long lapse of time but the grounds of detention ought to be served on him once he gains knowledge that the order of detention is in existence so as to offer him a plank to challenge even the

grounds of detention after which the courts will have to examine whether the order of detention which was passed at the relevant time but could not be served was based on sufficient material justifying the order of detention. Remedy to this situation has already been offered by this Court in the matter of ***Union of India*** *Vs.* ***Parasmal Rampuria****, (Supra) viz. (1998) 8 SCC 402 wherein it was observed as under:*

"the proper order which was required to be passed was to call upon the Respondent first to surrender pursuant to the detention order and then to have all his grievances examined on merits after he had an opportunity to study the grounds of detention and to make his representation against the said grounds as required by Article 22(5) of the Constitution of India..."

38. Justice Chelameswar, also held as under:-

19. If a preventive detention order is to be quashed or declared illegal merely on the ground that the order remained unexecuted for a long period without examining the reasons for such non-execution, I am afraid that the legislative intention contained in provisions such as Section 7(b) of the COFEPOSA Act would be rendered wholly nugatory. Parliament declared by such provision that an (recalcitrant) individual against whom an order of preventive detention is issued is under legal obligation to appear before the notified authority once a notification contemplated under Section 7(b) of COFEPOSA Act is issued. We have already noticed that failure to appear without a reasonable excuse would be an offence and render the defaulter liable for a punishment of imprisonment. Holding that the preventive detention orders are themselves rendered illegal, on the basis of the live nexus theory (which, in my opinion, is valid only for

examining the legality of the order, viz-a-viz the date on which the order is passed would not only exonerate the person from the preventive detention order but also result in granting impunity to such person from the subsequent offence committed by him under the provisions such as Section 7(b) of the COFEPOSA Act.

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23. Therefore, 1 am of the opinion that those who have evaded the process of law shall not be heard by this Court to say that their fundamental rights are in jeopardy. At least, in all those cases, where proceedings such as the one contemplated under Section 7 of the COFEPOSA Act were initiated consequent upon absconding of the proposed detenu, the challenge to the detention orders on the live nexus theory is impermissible. Permitting such an argument would amount to enabling the law breaker to take advantage of his own conduct which is contrary to law.

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27. The question whether the five circumstances specified in Alka Subhash Gadia case (supra) are exhaustive of the grounds on which a pre-execution scrutiny of the legality of preventive detention order can be undertaken was considered by us earlier in the instant case. We held that the grounds are not exhaustive.4 But that does not persuade me to hold that such a scrutiny ought-to be undertaken with reference to the cases of those who evaded the process of law."

39. This Court in ***Pawan Gupta*** (supra), considering the above judgment and the judgment of the Division Bench of this Court in ***Mohd. Nashruddin Khan*** (supra), refused to exercise its jurisdiction

under Article 226 of the Constitution of India, in favour of the petitioner therein who had also been declared as an absconder.

40. From the above, it can be gathered that while an order of preventive detention can be challenged at a pre-execution stage, the Court in its discretion can refuse to exercise its jurisdiction under Article 226 of the Constitution of India in favour of a detenue who is absconding from law.

41. In the present case, the respondents have asserted that the petitioner was declared a Proclaimed Offender *vide* order dated 04.05.2017 passed by the learned ACMM, Patiala House Courts, New Delhi and a Look Out circular dated 12.10.2017 had also been issued against him. As the petitioner could still not be traced even after the issuance of the Impugned Order, proceedings under Section 7(1)(a) of the COFEPOSA Act were initiated, and by an order dated 12.12.2019, the petitioner was again declared as a Proclaimed Offender. The whereabouts of the petitioner are still not known and he has not surrendered to the law.

42. We must herein note that, merely because a similar detention order passed against a co-accused, namely, Farha Hussain, has been quashed by this Court, the same cannot be used to invoke our jurisdiction under Article 226 of the Constitution of India, by a petitioner who is absconding from law. We must also note that the order of preventive detention in the case of Farha Hussain was quashed on its peculiar facts, including the finding of the Court that the submissions of the respondents that the detenue therein was

deliberately avoiding summons, thereby making it necessary to issue an order of preventive detention, were entirely without basis. The same cannot be said in the present case.

43. For the reasons stated hereinabove, we refuse to exercise our jurisdiction under Article 226 of the Constitution of India at a pre-execution stage. We, however, keep it open to the petitioner to challenge the Impugned Order in accordance with law after he has surrendered to the same.

44. The petition is, accordingly, dismissed.

45. There shall be no order as to costs.

NAVIN CHAWLA, J.

RAVINDER DUDEJA, J.

FEBRUARY 27, 2026/*rv/pb*