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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 23rd April, 2025
+ **W.P.(C) 5136/2025**
DALVINDER SINGH SUDANPetitioner
Through: Ms. Richa Kumari, Mr. Pawan, Mr.
Yatin, Adv.

versus

COMMISSIONER OF CUSTOMSRespondent
Through: Mr. Piyush Beriwal, Mr. Nikhil
Kumar, Ms. Jyotsana, Adv. for R-1.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Dalvinder Singh Sudan under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ assailing the detention of the one gold *kada* of the Petitioner detained *vide* detention receipt no. 005521 dated 29th November 2024 (New detention receipt no. 36434 dated 6th March 2025) which is stated to be a personal effect of the Petitioner.
3. The case of the Petitioner is that he was travelling from Dubai as a tourist *via* flight no. SG-12 and arrived at the Indira Gandhi International Airport, New Delhi on 29th November 2024. During the said travel, the Petitioner was stated to be wearing a 22 carat gold *kada* weighing 60 grams.
4. According to the Petitioner, the same was used as a personal effect of the Petitioner. It is also submitted that the Petitioner being a Sikh, always



wears this *kada*. The Petitioner has placed photographs on record as well.

5. The detention of the said gold *kada* took place on 29th November, 2024 and a Show Cause Notice was issued on 20th March, 2025 (hereinafter, ‘SCN’). The said SCN also records the fact that the Petitioner did not want the SCN and personal hearing and that the case may be decided on merits. The extract from the said SCN is set out hereinbelow:-

*“...he further stated that he had tendered his statement true and correct and had given the statement without any duress, pressure or threat. **Further, he requested that he did not want Show Cause Notice and Personal Hearing and his case may be decided on merit.**”*

6. Clearly, a perusal of the photographs and the fact that it is one *Kada* which is usually worn by persons like the Petitioner who are Sikhs, leaves no doubt in the mind of the Court that the same was a personal effect of the Petitioner. Moreover, in the cases of *Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB* and *Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB* this Court has discussed various issues arising in such 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 and waiver of SCN and personal hearing by way of a preprinted waiver form. The relevant extracts of the said decisions are as under:

“Mr Makhinder Chopra vs. Commissioner of Customs, New Delhi, 2025:DHC-1162-DB

*“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.

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34. Since, the Court has made clear that **the practice of making tourists sign undertaking in a standard form waiving the show cause notice and personal hearing is contrary to the provisions of Section 124 of the Act, hereinafter, the Customs Department is directed to discontinue the said practice. The Customs Department is expected to follow the principles of natural justice in each case where goods are confiscated in terms of Section 124 of the Act.**"

Amit Kumar v. The Commissioner of Customs, 2025:DHC:751-DB

"19. This Court is of the opinion that the printed waiver of SCN and the printed statement made in the request for release of goods cannot be considered or deemed to be an oral SCN, in compliance with Section 124. The SCN in the present case is accordingly deemed to have not been issued and thus the detention itself would be contrary to law. The order passed in original without issuance of SCN and without hearing the Petitioner, is not sustainable in law. The Order-in-Original dated 29th November, 2024 is accordingly set-aside"

7. Ld. Counsel for the Respondent submits that personal hearing dates have been fixed and the notice has been communicated to the Petitioner only on 22nd April, 2025.



2025:DHC:2919-DB



8. Considering the fact that the gold *kada* seized is merely a personal effect of the Petitioner, in the opinion of this Court, the detention itself would be contrary to law.

9. Accordingly, the detention of the gold *kada* is set aside.

10. The Petitioner shall be entitled to release of the gold *kada* within a period of four weeks from today subject to payment of warehouse charges.

11. The petition is disposed of in these terms. All pending application(s), if any, also stand disposed of.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

APRIL 23, 2025/n/ck