
(2013) 03 P&H CK 0084
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 24134 of 2012

Rajneesh Kumar Alias Goldy	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 20-03-2013

Acts Referred:

Customs Act, 1962 — Section 104, 108

Citation : (2013) 20 GSTR 1

Hon'ble Judges : Ritu Bahri, J; Hemant Gupta, J

Bench : Division Bench

Advocate : Vikram Chaudhary, for the Appellant; Sunish Bindlish for Respondents Nos. 1 to 3 and D.D. Sharma, for the Respondent

Judgement

Hemant Gupta, J.—The petitioner has invoked the writ jurisdiction of this court for quashing the proceedings including the investigation and inquiry conducted by the respondents as well as recourse to issuance of summons u/s 108 of the Customs Act, 1962 (for short the "Act"). The argument inter alia, is for the reason that the power of arrest under the provisions of the Act cannot be enforced without sanction from the competent magistrate and that all offences are bailable, therefore, the empowered officer cannot detain a person. The argument raised by learned counsel for the petitioner is based upon section 104 of the Act which is the power of arrest conferred upon the officers of customs empowered in this behalf by general or special order of the Commissioner of Customs.

2. Mr. Sharma, learned counsel for respondents Nos. 4 and 5 has pointed out that the respondents have called upon the petitioner by issuing the summons u/s 108 of the Act only.

3. After hearing learned counsel for the parties, we find that the entire basis of the petitioner to invoke the writ jurisdiction of this court is misconceived and is only to mislead this court. The entire arguments raised are in terms of section 104 of the Act. As on today, there is no document or information available oh

record to show that the respondents intend to act u/s 104 of the Act. Since the respondents are investigating the proceedings relating to import of prohibited foods and have called upon the petitioner to produce the documents in terms of section 108 of the Act, the entire arguments raised by learned counsel for the petitioner on the basis of section 104 of the Act are untenable.

4. The argument that the offence is bailable is not disputed by learned counsel for the respondents. It is also pointed out that though the offence is bailable but still the petitioner has obtained an order of this court for not arresting the petitioner even though, the anticipatory bail is not maintainable in respect of bailable offence.

5. Since the respondents are only investigating in terms of section 108 of the Act, we do not find any merit in the present petition. Dismissed.