

**Prem Singh Vs. the Administrator of the National Capital Territory of Delhi**

**Prem Singh Vs. the Administrator of the National Capital Territory of Delhi**

**SooperKanoon Citation :** [sooperkanoon.com/694433](http://sooperkanoon.com/694433)

**Court :** Delhi

**Decided On :** Feb-16-1993

**Reported in :** 1993(3)Crimes180; 50(1993)DLT173; 2003(25)DRJ451

**Judge :** D.P. Wadhwa and; Vijendra Jain, JJ.

**Acts :** Conservation of Foreign Exchange and Prevention of Sumggling Activities Act - Sections 2, 3(1) and 8

**Appeal No. :** Civil Revision Appeal No. 637 of 1992

**Appellant :** Prem Singh

**Respondent :** The Administrator of the National Capital Territory of Delhi

**Advocate for Pet/Ap. :** A.K. Sharma and; P.S. Sharma, Advs

**Judgement :**

**D.P. Wadhwa, J.**

(1) The petitioner challenges the order of detention dated 28th August, 1992 made against him by the Administrator of the National Capital Territory of Delhi, in exercise of powers conferred upon him under Section 3(1) read with Section 2(f) of COFEPOSA Act, 1974 (for short the Act) with a view to preventing the petitioner from abetting the smuggling of goods engaging in keeping smuggled goods and also detailing in smuggled goods otherwise than by engaging in transporting,

concealing smuggled goods. The petitioner has not so far been detained in pursuance of this order.

(2) On filing of this Writ Petition we issued notice to show cause as to why rule nisi be not issued and at the same time stayed the detention of the petitioner. in pursuance of the aforesaid detention order.

(3) Answer to show cause notice has since been filed and to that rejoinder as well. Detention Orders were passed against other persons as well in pursuance of which some were even detained, grounds of detention were communicated and the petitioner, thereforee filed grounds of detention in the c.ase of Shri Vijay Kumar who has been detained.

(4) On 28th January, 1992 six persons namely Jaspal Singh, Ramgarhia, Lalit Kumar, Surjit Singh, Sandeep Singh, Shurbir Singh and Daljit Singh bad arrived at the I.G.I.Airport from Hongkong and were intercepted outside the terminal building by the officers of Customs Department. Their statements were recorded and they admitted having is allowed gold at Hongkong for purposes of smuggling the same into India. Their statements were recorded in detail. On the basis of disclosure statements made by these persons the premises of detenu Vijay Kumar were searched. While the search was on, the petitioner arrived there on two-wheeler scooter. His personal search was made which led to recovery of 45 cut pieces of foreign marked gold wrapped in a paper lying in his pocket. The gold weighing 879 grams was of 24 carat purity and valued over Rs.2.83 lakhs. This was confiscated Along with the scooter on which the petitioner had come to the premises. Statement of petitioner was also recorded. He said Vijay Kumar was his brother-in-law. Petitioner said he was uprooted from Amritsar due to disturbances there and was buying gold from the detenu Vijay Kumar and after making nose pins used to sell the same in Rajasthan. Then the grounds recite the arrest of the petitioner, his production before the Magistrate concerned and his remand to Judicial custody Grounds also recite the arrest of/other detenues and also their production before Magistrate for purposes of J.C.

(5) We need not go into the details of the case as at the outset we were told that detenu Vijay Kumar and other detenu Sandeep Singh who had been apprehended

at the I.G.I. Airport have since been released by the Advisory Board constituted under Section 8 of the Act. The case of the petitioner does not appear to us to be any worse. The incident is of period Jan. 1992 and we were told thereafter there have been relaxations to bring gold into the country of foreign origin up to certain extent on payment of duty. Considering the over all facts of the case we do not find it a fit case where the order of detention should have been made against the petitioner. We find, it is also unnecessary to go into various grounds of challenge mentioned in the petition as we are of the opinion that there had not been proper application of mind in passing the impugned order of detention. Accordingly the petition is allowed. The impugned order of detention is set aside.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**