**WRITTEN ARGUMENTS**

**IN THE EXTRADITION MATTER**

IN THE COURT OF \_\_\_\_\_\_\_\_\_\_, ACMM, PATIALA HOUSE COURTS,

NEW DELHI

UNION OF INDIA

VS.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NEXT DATE OF HEARING – \_\_\_\_\_\_\_\_\_

WRITTEN ARGUMENTS

MOST RESPECTFULLY SHOWETH:

1.That in pursuance of order dated 22.04.2010 of Ministry of External Affairs above

mentioned enquiry, in respect of request for Extradition by the Govt. of United States of

America, has been initiated on the ground that the applicants are wanted in America for

prosecution in respect of certain offences.

2.That it is a matter of record, which fact has also been taken note of by the Hon'ble

Delhi Court in its judgment dated 21.12.2012, delivered in the matter pertaining to some legal

issue involved in the matter, that the applicants are already facing trial in separate cases,

registered against them, in India itself. The relevant paras no.5, 6 & 7 of the said judgment are

reproduced in this regard as under:-

“5.At this juncture, it would be relevant to point out that earlier, on 19.04.2005, on the

basis of information received from US Drug Enforcement Authority, joint raids were

conducted by the Narcotics Control Bureau and cases were initiated against the petitioners

and on the said date, the petitioners in WP (Crl) 1530 and 1531 were arrested. Three separate

cases were registered against the petitioners. One case was registered in Delhi, another in

Jaipur (Rajasthan) and the third one in Agra (U.P.). In Delhi, it was Case No.52/2005 under

Sections 21, 22, 23 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985

(hereinafter referred to as „the NDPS Act‟). That case is pending before the learned

Additional Sessions Judge, New Delhi. In that case, Mr X is the accused.

6.In Jaipur, Case No.34/2005 was registered under Sections 8(c), 22, 23 and 29 of the

NDPS Act against X, Y and Z. In that case, the Sessions Court at Jaipur acquitted all the three

accused by virtue of a judgment and / or order dated 28.08.2015 and consequently, the three

accused were released from jail on 28.08.2015 after having spent more than four years in

custody. The State, however, did not accept the decision of the Sessions Court and preferred

an appeal before the High Court of Rajasthan, Jaipur Bench which is pending.

7.Insofar as the Agra case is concerned, it was registered as Case No.8/5/DZU/2005

under Sections 21, 22 and 23 of the NDPS Act in which Mr X is an accused. That case is still

pending before the Sessions Court in Agra (U.P.). Mr A was also sought to be accused in the

Agra case, but his remand was declined by the Sessions Court by an order dated 20.04.2005

and he was discharged on the ground of lack of evidence against him. As such, there is no

case pending against A in India insofar as the aforesaid offences are concerned.”

It is respectfully submitted that it is a matter of record and admitted by the Union of

India that the offences, for which the applicants are facing trial in this case, are different from

the offences for which extradition is being sought by the USA Government in order to

prosecute them there.

3.That in view of section 31(1) (d) of the Extradition Act, 1962 there is a restriction on

extradition / returned of the alleged fugitive criminal to the foreign state / USA herein. The

said provision of the Act is reproduced as under for ready reference:-

“(d) If he has been accused of some offence in India, not being the offence for which his

surrender or return is sought, or is undergoing sentence under any conviction in India until

after he has been discharged, whether by acquittal or on expiration of his sentence or

otherwise;”

It is respectfully submitted that applicants have been acquitted in the aforementioned

case registered in Jaipur and leave to appeal by the NCB is pending before the Rajasthan High

Court. Other said case in Agra is still pending trial.

4.That, therefore, bar of section 31(1)(d) for extradition of the applicants is fully

applicable in the present case.

5.That it is further respectfully submitted that the offences for which extradition of the

applicants is being sought are not made out against them, since they have been falsely

implicated in the matter. Moreover, they appear to be politically motivated, which fact the

applicants would substantiate before this Hon'ble Court during the course of enquiry

proceedings.

6.That the applicants are permanent residents of Rajasthan and as such there are no

chances of their absconding or flee from justice, more particularly when they have roots in

society and have other family members in this Country.

7.That it would not be out of context to mention here that the Hon'ble Delhi High Court

had stayed their arrest during the pendency of the aforementioned Writ Petition, which liberty

the applicants never misused. Therefore, this also shows that the applicants are not likely to

abscond.

PRAYER:-

In view of foregoing, it is most respectfully prayed that extradition of the above

named applicants by the requesting state may kindly be denied and the fugitives may kindly

be discharged from the matter.

New Delhi

Dated:

Applicants

(X, Y and Z)

Through

Counsel