

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

CrI.MC.No. 5194 of 2015 ()

CRIME NO. 490/2015 OF NEDUMBASSERY POLICE STATION , ERNAKULAM DISTRICT

PETITIONER :

**FRANKIE CHIDI, AGED 29 YEARS,
S/O.UZOUCHUKWU, LKAIE STREET LAGOS, ISLAND LAGOS,
NIGERIA. (NOW IN CENTRAL PRISON, VIYOOR).**

BY ADV. SRI.LAVARAJ M.G.

RESPONDENT(S):

- 1. SUB INSPECTOR OF POLICE,
NEDUMBASSERY POLICE STATION, NEDUMBASSERY,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,PIN- 682 031.**
- 2. DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD,
ERNAKULAM DISTRICT-682 030.**

***ADDL.R3 IMPEADED**

***ADDL.R3: FOREIGN REGIONAL REGISTRATION OFFICER,
COCHIN.**

***ADDL.R3 IS IMPEADED AS PER ORDER DATED 18/08/2015.**

**R1 & R2 BY PUBLIC PROSECUTOR
ADDL.R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 5194 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX.A1(A) - TRUE COPY OF THE F.I STATEMENT

ANNEX.A1(B) - TRUE COY OF THE FIR

ANNEX.A2 - TRUE COPY OF THE BAIL ORDER DATED 11.06.2015

**ANNEX.3 - TRUE COPY OF THE NOTARIZED AFFIDAVIT DT. 15.7.2015
EXECUTED BY THE SURETIES BEFORE THE 2ND
RESPONDENT.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

Crl.M.C. No. 5194 of 2015

Dated this the 18th day of August, 2015

ORDER

The prayer in this Crl. M.C is for a direction to the 2nd respondent to comply with 3rd condition of Annexure A2 bail order dated 11.06.2015 rendered in CMP. No. 845/2015 in Crime No. 490/2015 Nedumbassery Police Station, Ernakulam District.

2. The petitioner is a foreigner who was accused in the aforesaid Crime for offences under section 468, 471 of IPC r/w Section 13 and 14 of the Foreigners act, 1946 and Section 12(1)(b) of Passport Act, 1967. The gist of the prosecution case is that the petitioner/accused is a Nigerian citizen, stayed in India beyond the Visa period and in order to conceal it he fraudulently made an Indian Visa and using it, he tried to depart from India to Nigeria. He also stamped the forged seal of Mumbai International Airport Immigration department in his passport. The petitioner/accused was in judicial custody since 09.04.2015 in connection with the aforesaid crime and thereafter since the final report was not filed

within the maximum period envisaged under Section 167(2) of the Code of Criminal Procedure. The petitioner had moved an application for statutory bail. It is allowed as per Annexure A2 order with the following conditions:

- “1. Petitioner/accused shall execute bond for Rs.25,000/- with two solvent sureties each for the like sum. Both sureties shall be residents within the jurisdiction of this Court.
2. The petitioner shall reside within the jurisdiction of this court till the disposal of the case and he shall be under the strict supervision of the Civil Authority within the meaning of Sec.11 of the Foreigners Order, 1948.
3. The Civil Authority shall specify the place of residence of the petitioner, restrict his movements and his association with any person or class of persons other than those specified by the Civil Authority and shall also ensure that the petitioner is not violating the provisions of the Foreigners Act, 1946.
4. The petitioner shall report before the Investigating Officer on all Mondays and Thursdays between 10 a.m. and 12 p.m. for a period of two months or till final report is filed, whichever is earlier.
5. The petitioner shall not tamper with evidence or influence witnesses.
6. The petitioner shall make himself available for interrogation as and when required by the Investigating Officer.
7. The petitioner shall not involve in any offence while on bail.”

3. It is the case of the petitioner that the 2nd respondent, District Collector is the designated civil authority within the meaning of paragraph 11 of the Foreigners Order, 1948 framed under the provisions of the Foreigners Act, 1946. It is a further case that the Civil authority within the meaning of Paragraph 11 of Foreigners

Order, 1948 has not complied with the requirements of condition no. 3 in Annexure A2 statutory bail order and therefore though he is beneficiary of the grant of the statutory bail order i.e., Annexure A2, still anguishing in jail and he has not able to enjoy the fruits of freedom of Annexure A2 bail order.

4. Heard Sri. M.G. Lavaraj, learned counsel for the petitioner, Sri. Rajesh Vijayan, the learned public prosecutor and Sri. N. Nagaresh, Assistant Solicitor General of India for additional 3rd respondent (Foreign Regional Registration officer, Kochi).

5. The State public prosecutor has got instructions and submitted the District Collector is no longer the Civil authority as specified within the meaning of Paragraph 11 of Foreigners Order, 1948 and the competent authority in that regard has been redesignated by the competent authority of Central Government in that regard.

6. Sri. N. Nagaresh, learned Assistant Solicitor General of India appearing for additional respondent no. 3 submitted on instructions that the designated civil authority within the meaning of Paragraph 11 of Foreigners Order, 1948 is now the Foreign

Regional Registration Officer, Kochi so far as the District of Ernakulam is concerned.

7. In the light of these submissions it is ordered that additional respondent no.3 shall forthwith specify the place of residence of the petitioner and issue necessary orders in the matter to restrict his movements and his association with any persons or class of persons other than those specified by the civil authority and shall also ensure that the petitioner is not violating the rules of Foreigners Act, 1946 in full compliance with condition no.3 of Annexure A2 bail order. This condition no.3 will be complied with immediately on receipt of certified copy of this judgment and necessary communication in this regard.

To effectuate compliance in direction, the learned counsel for the petitioner undertakes that he will approach the additional respondent no. 3, Foreign Regional Registration Officer, Kochi with a separate copy of this judgment and that the said condition no. 3 will requested to take the accused from jail and make adequate arrangements to ensure that the petitioner/accused resides in the place of residence as directed by the additional respondent no.3 and

shall also comply with the other requirements of condition no.3. Sri. N. Nagaresh, learned Assistant Solicitor General of India will also give instructions to Additional respondent no.3 to effectuate full condition no. 3 of Annexure A2 and upon which the jail authority is concerned will also take necessary steps to ensure the release of person to Annexure A2 bail order. It is further made clear that this Annexure A2 order of this Court in this case will not in any way to preclude the power of the competent authority, Central Government to initiate appropriate steps in accordance with law in the light of provisions of Foreigners Act, 1946 and the rules/regulations/orders thereon. The learned Public Prosecutor will ensure that the certified copy of this judgment is forwarded to the competent jail authority concerned.

With these observations and directions this Crl.M.C. stands finally disposed of.

Sd/-
ALEXANDER THOMAS
JUDGE

ww