

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.06.2015

Date of verdict: 25.06.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.10671 of 2015

Maya Venkatesan @ Venkatesan

...Petitioner

Vs

The State rep. by
The Deputy Superintendent of Police,
OCU, Chennai.

...Respondent

Criminal Original Petition filed under Section 439(1)(b) Cr.P.C. to set aside the bail condition imposed in Crl.M.P.No.2576 of 2007 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai vide order dated 28.11.2007 directing the petitioner to surrender his passport before the Court and to consequently direct the registry of the learned XIX Additional Sessions and City Civil Judge, Chennai, to return the passport bearing No.E8895275 both for the purpose of renewal thereof and for travel to Malaysia and Singapore for the short span of time, the period which the petitioner undertakes to inform in advance by way of a sworn affidavit before the trial Court.

For Petitioner : Mr.G.Prabhakaran

For Respondent : Mr.M.Mohamed Riyaz,
Govt. Advocate (Crl.Side)

ORDER

The present criminal original petition has been filed to set aside the bail condition imposed in Crl.M.P.No.2576 of 2007 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai

vide order dated 28.11.2007 directing the petitioner to surrender his passport before the Court and to consequently direct the registry of the learned XIX Additional Sessions and City Civil Judge, Chennai, to return the passport bearing No.E8895275 both for the purpose of renewal thereof and for travel to Malaysia and Singapore for the short span of time, the period which the petitioner undertakes to inform in advance by way of a sworn affidavit before the trial Court.

2. The petitioner is an accused in S.C.No.207 of 2011 on the file of the learned XIX Additional Sessions and City Civil Judge, Chennai. Originally, the petitioner was arrested and later, he was enlarged on bail vide order dated 28.11.2007 in Crl.M.P.No.2576 of 2007 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai on the following conditions:-

(i) The petitioner / accused shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties each for the like sum.

(ii) The petitioner / accused should appear before the investigating officer daily at 10.00 a.m. until further orders.

(iii) The petitioner / accused shall surrender his passport, if any. If he has no passport, affidavit should be filed to that effect.

(iv) The petitioner / accused shall not tamper the witnesses or hamper the investigation.

Now, the petitioner has filed the present petition to return his passport.

3. In the said petition, it has been stated as follows:-

(a) The very imposition of condition to surrender the passport of the petitioner is unwarranted and no material was placed before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai at the time of considering the bail application, to show or claim that the petitioner would leave the country after granting bail. The petitioner has got permanent residence at Sembaranar Koil Village and he is also having all his business activities within the territory of Tamil Nadu. Considering his continuous social and business status in India, even the Central Government of India has granted licence to the petitioner to commence a cement factory. There is no iota of materials placed by the prosecution that the petitioner has got financial links in abroad. However, as a matter of routine practice,

a condition to surrender the passport has been imposed upon the petitioner.

(b) The passport of the petitioner bearing No.E8895275 was issued to him on 29.4.2004 and the validity of the same expired on 28.4.2014. Hence, to renew and to extend the validity of passport as provided under the provisions of Passport Act and its Rules, the petitioner is bound to produce the original passport to the passport authorities.

(c) Further, the petitioner is a chronic patient of various spinal complications including Dorsal Spinal cord compression and prolapse complications. He had already underwent multiple surgeries on his spine, but still not recovered fully. Presently, the vigour of his sufferings out of lumber disc prolapse has gone to peak and intolerable levels, which literally incapacitates him to sit, stand and walk even for short while, as a result of which, the petitioner is not able to even pursue his day to day activities and is suffering a lot. Therefore, as suggested by his family friends and doctors, he intends to visit Subang-Jaya Medical Centre situated in Malaysia and Singapore General Hospital for further diagnosis and medical opinion.

(d) Further, some of his friends got invitations for negotiations to have multinational tie-ups to revamp and recommence the cement factory project, which was stalled by foisting of cases at the instance of business rivals. In such circumstances, the visit and stay of the petitioner in Malaysia and Singapore for a specified time is very much required both in the interests of the petitioner and the victims of the case. Since the sessions case is in the very premature stage and ripen for trial, some of the accused who have aggrieved by the dismissal of their discharge petitions and framing of the charges, have preferred criminal revision petitions before this Court and interim stay was also granted for the continuation of proceedings by this Court and the entire case records were also seemingly sent to this Court pursuant to the orders of this Court passed in the said criminal revision petitions. In such circumstances, a short term travel of the petitioner would not prejudice the prosecution at any rate and the progress of the trial will also not be affected by any means. Further, the petitioner has got his family and immovable properties in Tamil Nadu and he would not evade the process of law and Court at any rate. Hence, the present petition.

4. When the matter came up for consideration, learned counsel appearing for the petitioner produced a judgment of the Hon'ble Supreme Court reported in 2008 (4) CTC 277 - Suresh Nanda v.

CBI, in support of his contention that the Court cannot impound the passport.

5. Learned Government Advocate (Crl. Side) opposed for return of the passport to the petitioner by filing a detailed counter.

6. However, considering the facts and circumstances of the case and considering the fact that the trial is in the premature stage, I am of the opinion, the condition could be relaxed for a specific period by imposing some conditions.

7. Accordingly, this Court sets aside the bail condition imposed in Crl.M.P.No.2576 of 2007 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai vide order dated 28.11.2007 directing the petitioner to surrender his passport before the Court and the learned XIX Additional Sessions and City Civil Judge, Chennai, is directed to return the passport of the petitioner for a period of three months for the purpose of renewing the passport and also to travel abroad for the purpose of taking medical treatment, on the following conditions:-

(i) The petitioner shall file an affidavit before the XIX Additional Sessions and City Civil Court, Chennai informing his address where he will be available for contact during his period of stay away from India as well as contact telephone/cellphone number while abroad and also undertake to appear before the Court below as and when required ;

(ii) The petitioner shall also undertake in the affidavit to return to India and place the renewed passport in the custody of the said Court on or before 1.10.2015.

(iii) On renewal of the passport, the petitioner is also directed to furnish the particulars of renewal of the passport to the Court before leaving the country for taking treatment.

The criminal original petition is ordered accordingly.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Deputy Superintendent of Police,
OCU, Chennai.
2. The XIX Additional Sessions Judge
City Civil Court, Chennai - 104.
3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.10671 of 2015

SVI (CO)
PSI (29.06.2015)



WEB COPY