

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5037 OF 2015

ORDER:

This Criminal Petition is filed by the petitioner/A1 under Section 482 Cr.P.C seeking to grant interim custody of passport of the petitioner, which was seized in crime No.128 of 2014 on the file of XII Additional Chief Metropolitan Magistrate, Hyderabad and to set aside the order dated 27.03.2015 in Crl.M.P.Nos.721 and 722 of 2015 in crime No.128 of 2014 passed by XII Additional Chief Metropolitan Magistrate, Hyderabad.

Heard the learned counsel for the petitioner and the learned Public Prosecutor (Telangana) for the State.

The petitioner is one of the accused in crime No.128 of 2014 of Cyber Crime Police Station, Hyderabad, for the offences punishable under Sections 16 of the Cable Television Network Amendment Regulation Act, 2000, Sections 3 and 6 of the Indian Wireless Telegraphy Act, 1933, Section 66(C), (D) of the Information Technology Act, 2008 and Section 420 I.P.C.

This Court by order dated 07.08.2014 in Crl.P.No.8295 of 2014 granted anticipatory bail to the petitioner with six conditions, which include condition No.2 that the petitioner shall report before the investigating officer till filing of charge sheet on every Sunday and thereafter once in a month on the first Sunday till end of trial for assurance of availability to face the trial and noninterference with the witnesses and the other condition is to surrender passport of the petitioner besides furnishing of full

address.

It is the submission of the learned counsel for the petitioner that pursuant to the said order of this Court, the petitioner deposited his passport and furnished his full address particulars, that earlier the petitioner filed CrI.M.P.No.15880 of 2014 in CrI.P.No.8295 of 2014 under Section 439 Cr.P.C. before this Court referring to the said bail application order to relax the conditions viz., to return the passport to him and the said application was dismissed as withdrawn as permission sought for. It is the submission that the said application was withdrawn with an intent to file application before the learned Magistrate concerned and on this application, the learned Magistrate in CrI.M.P.No.721 of 2015 by order dated 27.03.2015 negated this plea for return of the passport to the petitioner working in AMRO to go abroad for Asia Pacific and African countries to conduct duty meetings regarding business progress for which the learned Additional Public Prosecutor stated even no objection for return of passport upto a specified period.

No doubt, a perusal of the order speaks that the passport is deposited to assure availability of the petitioner to face trial. The learned Magistrate observed that if the passport is being returned, there is possibility of fleeing away as the petitioner wanted to go abroad and then difficult to secure his return back to India to participate in the investigation, leave about subsequent stage to the investigation.

In fact any person, who is accused of crime pending apart from post cognizance stage of any case under Section 6(2)(f) of the Indian Passport Act, 1967 has to obtain permission of the Magistrate concerned as per the circular of the Central

Government in GSR 570E dated 25.08.1993, either for getting passport or renewal of the existing passport or even to obtain transit permission. He did not seek that prayer but for simply return of the passport. In fact the return of passport serves no purpose without that prayer and without that permission vide decision of this Court in **Abdul Gaffer Khan v. State of Telangana**^[1]

Having regard to the above and to sub serve the ends of justice from what petition says for duty tours to go abroad time to time and not the version of police to abscond; this criminal petition is allowed according permission to the petitioner to leave the country intermittently every month for the said business purpose not exceeding fifteen (15) days in a month and return back every month after said transit periods and he shall report his leaving the country as well as arrival on every time, one day in advance to the investigating officer concerned either in person or through telephonic or cell phone messages and also to appear before the Station House Officer concerned every month once preferably on first Sunday and if he is in transit to go abroad on his return either on second or third Sunday, as the case may be. Needless to say, as ordered in the bail order any violation deserves cancellation of the bail itself. The petitioner shall submit a bond for Rs.2,00,000/- (Rupees Two lakhs only) to the learned Magistrate for due return of the passport as and when required during proceedings pending before the learned Magistrate and in case of any non-compliance, the bond shall be forfeited under Section 53(6) I.P.C.

Accordingly, this criminal petition is allowed, by relaxing

the conditions including appearance of the petitioner on every Sunday before the Station House Officer concerned by so modifying.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 18-06-2015
pab

[\[1\]](#) 2015(1) ALT(Crl.) 91