

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: February 11, 2015

+ CRL.M.C.NO.531/2015

SANJEEV NANDA

..... Petitioner

Through: Mr. Siddharth Luthra, Senior
Advocate with Mr. Sandeep Kapur,
Mr. Vivek Suri & Mr. Apporva
Pandey, Advocates

versus

C.B.I.

..... Respondent

Through: Mr. Narender Mann, Special
Public Prosecutor for CBI with Mr.
Manoj Pant & Ms. Utkarsha Kohli,
Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

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(ORAL)

Crl.M.A.No.2064/2014 (Exemption)

Allowed subject to all just exceptions.

Crl.M.C.No.531/2015

While granting bail to petitioner, a Coordinate Bench of this Court vide order of 29th April, 2008 had put a rider on petitioner to seek prior permission of trial court before leaving the country. Waiver of aforesaid rider is sought by petitioner in this petition.

At the hearing, learned senior counsel for petitioner had drawn the attention of this Court to trial court's order of 12th January, 2015 to point out that petitioner's earlier application to travel abroad had become

infructuous because permission to travel abroad was not granted in time and petitioner had to re-schedule his visit whereby the business of petitioner was adversely affected. Attention of this Court was also drawn to order of 5th January, 2015 of trial court wherein it is noted “no time left” and petitioner’s similar application to travel abroad was deferred to another day and by then, the meeting for which petitioner wanted to travel abroad, had already taken place. It was pointed out by learned senior counsel for petitioner that vide application (*Annexure I colly*) petitioner had sought permission to travel to UK and UAE from 10th December, 2014 till 10th January, 2015 but the period of travel was arbitrarily curtailed by trial court by order of 9th December, 2014 from 12th December, 2014 to 31st December, 2014, which had adverse affect on the hospitality business of petitioner. It was also pointed out that petitioner had received letter/invitation from First International Group Pic, London to attend a meeting on 6th January, 2015 and inability of petitioner to attend the said meeting had also adversely affected his business.

During the course of hearing, learned senior counsel for petitioner had drawn the attention of this Court to order of 17th April, 2014 (*Annexure S*) to point out that co-accused Suresh Nanda has been granted permission to travel abroad for a period of one year whereas it has been arbitrarily denied to petitioner vide impugned order of 31st January, 2015. Lastly, it was submitted on behalf of petitioner that petitioner has not absented on any date of hearing before the trial court and so waiver of condition of seeking prior permission of trial court to travel abroad deserves to be accepted.

In all fairness, learned senior counsel had placed on record copy of order of 1st December, 2014 passed by a Coordinate Bench of this Court in CrI.M.C.No.4484/2014 titled *Sanjeev Nanda v. CBI* wherein a similar prayer of petitioner has been already rejected.

Learned Special Public Prosecutor for respondent-CBI supports the impugned order and submits that in view of aforesaid order of 1st December, 2014, there is no illegality or infirmity in the impugned order as permission to travel abroad is always granted by the courts on priority.

In rebuttal, learned senior counsel for petitioner had placed reliance upon decisions in *G.Vetrivel Sami & Swami v. CBI* 2012 (2) JCC 1179, *Hemant Setya v. State* 2008 [1] JCC 90, *Nandini Bhatnagar v. State Govt. of NCT of Delhi* 2013 I AD (Delhi) 387, *Capt. O.P.Malhotra v. State (NCT of Delhi)* 129 (2006) DLT 324, *Bina K.Ramani v. State* 2010 (115) DRJ 650 and *Manmohan Singh v. CBI* 2004 IV AD (Delhi) 549 to submit that difficulty in frequently obtaining prior permission for travelling abroad has been appreciated in afore-referred decisions and so, trial court has erred in relying upon order of 1st December, 2014 passed in CrI.M.C.No.4484/2014. Thus, it is submitted that petitioner is ready to place on record undertaking that he would be present before the trial court on every date of hearing and would travel abroad with prior intimation to trial court with Itinerary etc.

Upon hearing and on perusal of impugned order and the order of 1st December, 2014 referred to during the course of hearing, material on record and the decisions cited, I find that discretion to put the rider of seeking prior permission from trial court before travelling abroad is to be exercised in the fact situation emerging in each case. The decisions relied

upon by learned senior counsel for petitioner, are not binding precedents as the facts of those cases were quite different. In the instant case, prayer now made has been already considered by a Coordinate Bench of this Court in order of 1st December, 2014 [Crl.M.C.No.4484/2014] and by a well reasoned order, the said prayer has been declined. I see no reason to take a different view than the one taken in the aforesaid order.

In the considered opinion of this Court, there is no palpable error in the impugned order and the order of 17th April, 2014 by Link Special Judge granting permission to co-accused of one year to travel abroad cannot be a precedent because it gives no reasons as to why permission of one year has been granted. Such a view is being taken as we are in digital age, where there is Skype, video conferencing etc. and business transactions can be undertaken with the business associates abroad even while sitting in this country.

During the course of hearing, it was submitted on behalf of petitioner that petitioner would be filing an application before the trial court seeking permission to go to UK and UAE from 20th February, 2015 till 10th March, 2015. Petitioner is at liberty to do so. Trial court is cautioned to ensure that the hearing in such like applications ought not to be deferred by just writing “no time left”, as such like applications have to be promptly dealt with, so that, purpose of seeking permission is not frustrated.

With aforesaid observations, this petition is disposed of.

(SUNIL GAUR)
JUDGE

FEBRUARY 11, 2015

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