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

Judgment delivered on: 16th September, 2015

+ **CRL.M.C. No.3311/2015**

PROMILA NANDA

..... Petitioner

Represented by: Dr. Sarabjit Sharma and
Ms. Megha Kamthan,
Advocates.

Versus

STATE NCT OF DELHI

..... Respondent

Represented by: Ms. Meenakshi Chauhan,
Additional Public Prosecutor
for the State with SI Sandeep
Yadav, Crime Branch.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CRL.M.C. No. 3311/2015

1. By way of this petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks directions thereby quashing the order dated 09.12.2014 passed by the learned Chief Metropolitan Magistrate (CMM), Patiala House Courts, New Delhi and order dated 29.06.2015 passed by the learned Additional Sessions Judge (ASJ) of the said Court.

2. Vide order dated 09.12.2014, on an application being moved by one of the witness that petitioner shall seek prior permission of the Court before going abroad, accordingly, the learned CMM put the said restrictions upon the petitioner.

3. Being aggrieved, the petitioner challenged the same by filing Criminal Revision No.115/2014, however, the same was dismissed by the learned ASJ vide its order dated 29.06.2015.

4. Learned counsel appearing on behalf of the petitioner submits that vide order dated 19.12.2011, the petitioner was granted bail without putting any condition. The petitioner was not arrested in this case. On filing the chargesheet, petitioner appeared pursuant to summons received from the Court. The petitioner is around 80 years old and is an ailing lady. She is on wheel-chair and has been exempted from personal appearance before the Court.

5. The aforesaid facts have not been disputed by the learned Additional Public Prosecutor appearing on behalf of the State. However, she submits that the aforesaid case was registered vide FIR No.246/2010 at Police Station Tilak Marg, New Delhi, on the directions passed by this Court in CS(OS) No.1136/2005 on 04.04.2008, whereby the Crime Branch was directed to register a case and investigate the conspiracy between M/s Durga Builders Private Limited and Vishesh Jain on the documents filed in that case to ascertain whether they were false or genuine.

6. The fact cannot be disputed that liberty of any citizen cannot be curtailed by putting such conditions which becomes obstacle for that person to avail any opportunity. In this case, initially, vide order dated 19.12.2011, the petitioner was granted bail and no condition was imposed upon her. However, on an application being moved by one of the witness, who did not appear before the Court and has not explained as to how he

will be prejudiced if the petitioner travels abroad. However, the learned Trial Court has passed the order, which has been confirmed by the learned Revisional Court.

7. In a case bearing Crl. M.C. No.83/2012, titled as ***G.Vetrivel Sami @ Swami Vs. CBI***, decided by this Court on 20.03.2012, it was held as under:-

“9. The petitioner stated having started his consultancy business with CIS countries and so, he would be required to travel abroad frequently. Though, he has travelled abroad only about four times in five years, but, that was presumably because of onerous conditions and the reason of petitioner having stopped his business of travel and tours. In the given facts and circumstances, I am of the view that the petitioner is now entitled to enjoy personal liberty without seeking permission from the court every time under onerous and harsh conditions. In the entire factual matrix, I am inclined to modify the conditions of bail so as to ensure the fair trial and also submission of the petitioner to the process of law. Accordingly, the first and second conditions imposed vide order dated 03rd June, 2006 are modified and substituted as under:

(1) The petitioner shall not leave the country without informing the Trial Court a week in advance of his visiting abroad and shall furnish the complete itinerary stating the country/countries, which he intends to visit and the period of his stay as also the addresses where he would be staying and his contact numbers. He shall also inform the Trial Court in writing about his return to India within a week thereof. Further, he shall not travel abroad during the period when the case is listed for evidence and his presence is

required, unless already dispensed.

(2) While intending to go abroad, he shall furnish a bank guarantee or FDR of Rs. 5 lakhs in the Trial Court, which shall be kept alive till the period he returns and informs the court.”

8. In view of the above discussion and legal position, the order dated 09.12.2014 which has been upheld by the learned Revisional Court is hereby modified to the extent that whenever the petitioner leaves the country, the itinerary of the same alongwith an amount of Rs.10,00,000/- (Ten Lacs) in the form of FDR shall be furnished before the learned Trial Court in advance. She will remain present in Court as and when called upon to do so and shall not ask extension on any ground. After returning from abroad, she shall report the court immediately.

9. It is clarified that the FDR so deposited by the petitioner can be withdrawn by her after she returns from abroad.

10. In view of the above, the present petition stands disposed of.

Crl. M.A.No.11795/2015 (for stay)

With the disposal of the petition itself, the instant application has become *infructuous*. The same is dismissed accordingly.

**SURESH KAIT
(JUDGE)**

SEPTEMBER 16, 2015

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