

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

+ **CRL.M.C. 4905/2015**

Date of Decision : March 03rd, 2016

SANJAY SWAROOP

..... Petitioner

Through Mr.Ramakant Gaur & Ms.Somya
Singh, Advs.

versus

DIRECTOR GENERAL OF CENTRAL EXCISE Respondent

Through Ms.Satya Narayan, APP for State

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

P.S.TEJI, J.

1. The present petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter shall be referred to as the "Cr.P.C.") has been filed by the petitioner seeking directions for renewal of his passport which expired on 29.04.2014 and for permission to travel abroad for a period of six months.

2. In the petition, it is submitted that the petitioner is the director of M/s Kamakhya Steels Private Limited. The respondent registered a case against M/s Kamakhya Steels Private Limited for alleged evasion of excise duty to the extent of Rs.5.7 crores. The petitioner had filed an application being Bail Application No.761/2008 before this Court

seeking anticipatory bail. The said bail application was disposed of vide order dated 01.05.2008 while granting liberty to the petitioner to approach this Court for traveling abroad. It is submitted that the petitioner is suffering from number of ailments and his medical condition is not very good. The petitioner had moved an application vide Crl.M.C. 1444/2010 for going abroad in connection with FIR No.68/INT/DGCEI/HQ/07/7580. Vide order dated 13.05.2010, this Court allowed the said petition permitting the petitioner to go abroad for seven days and the respondent was directed to give back the passport to the petitioner. It is further submitted that the petitioner is a patient of chronic liver disease. On 14.10.2015, the petitioner was admitted to CLBS and released on 16.10.2015 and he has been counselled for liver transplantation. The petitioner has prayed for directing the respondent to release the passport of the petitioner for renewal and for traveling abroad for a period of six months.

3. Reply to the petition has been filed by the respondent in which the contentions made in the petition have been opposed. In the reply, it has been submitted that the petitioner is involved in a serious offence of evasion of Central Excise duty and if he is granted permission to go abroad, he may not return. It is further submitted that vide order dated 25.05.2015, the Director General of the respondent sanctioned launching of prosecution against the petitioner and his company for offences punishable under Section 9 & 9AA of the Central Excise Act, 1944 which has been filed in the Court on 30.10.2015. It is further submitted that the prosecution has been launched against the petitioner and if he is permitted to go abroad, he may flee away from the

country.

4. I have heard the learned counsel for the petitioner as well as learned counsel for the respondent.

5. Perusal of record shows that the petitioner had moved an anticipatory bail application being Bail Application No.761/2008 before this Court which was disposed of vide order dated 01.05.2008. The anticipatory bail was granted to the petitioner with the following conditions :

“It is accordingly, directed that in the event of his arrest, the Petitioner will be released on bail on his furnishing a personal bond in the sum of Rs.2,00,000/- with one surety in the like amount to the satisfaction of the Respondent, DGCEI. The Petitioner will surrender his passport which will be kept in the custody of the Respondent. The Petitioner will not travel abroad without the prior permission of this Court. He will appear as and when directed by the Respondent and will cooperate in the investigation. He will not intimidate any person who is sought to be questioned by the Respondent or tamper with the evidence in any manner whatsoever. If any of these conditions is violated, it will be open to the Respondent to seek variation or cancellation of the bail.”

6. Thereafter, the petitioner moved a petition being Crl.M.C. 1444/2010 and vide order dated 13.05.2010, the petitioner was granted permission to go abroad for seven days subject to furnishing FDR in the sum of Rs.5 lakhs. The respondent was directed to give back the passport to the petitioner so that he could go abroad.

7. The respondent along with their reply to the petition has placed on record the complaint case filed before the Chief Judicial Magistrate, Meerut being Case No.3543 of 2015.

8. Perusal of the above complaint shows that the prosecution has been launched against the petitioner and his company and others for commission of offences punishable under Section 9 & 9AA of the Central Excise Act for evasion of excise duty to the tune of Rs.65 crores. It has been mentioned that the Director General, Central Excise had given sanction vide order dated 25.05.2015 for launching prosecution.

9. Since it has come on record that the prosecution has been launched against the petitioner and his company and the case has been filed in the Court of Chief Judicial Magistrate, Meerut, Uttar Pradesh, this Court is of the considered opinion that this Court ceased to have any jurisdiction as this Court is having no territorial jurisdiction to deal with the matter. Therefore, no case is made out to direct the respondent to release the passport or to grant permission to the petitioner to go abroad.

10. In view of the above discussion, the present petition is disposed of with the observations that the petitioner is at the liberty to approach the Court concerned to avail the remedy available to him.

(P.S.TEJI)
JUDGE

MARCH 03, 2016
dd