

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CRIMINAL PETITION Nos. 10480 AND 10481 OF 2017**

**COMMON ORDER:**

Criminal Petition No. 10481 of 2017 is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the order dated 27-10-2017 in CrI.M.P.No. 2360 of 2017 in C.C.No. 1 of 2012 on the file of the Court of Principal Special Judge for CBI Cases, Hyderabad (for short, 'the Court below'), whereby it denied permission to the petitioner to go to United Kingdom (for short, 'U.K.') to attend the first wedding anniversary of his daughter on 16-11-2017 with an undertaking to come back to India after attending the same.

2. The petitioner is accused No. 2 in C.C.No. 1 of 2012 for various serious economic offences and he is facing charges in various other cases also, filed by different branches of investigating agencies. However, he was enlarged on bail. After his enlargement on bail, he performed his daughter's marriage by name G.Bramhani, who is pursuing Masters Degree in Business Management in Coventry University, U.K., and she is celebrating her first wedding anniversary on 16-11-2017. On the occasion of celebration, his presence is required to bless the couple and sought permission to go to U.K.

3. Learned Public Prosecutor appearing for the State before the Court below opposed this petition expressing the apprehension that he may stay at U.K. and may not return to India. In such case, proceedings pending in various Courts will be delayed and therefore requested to dismiss the petition.

4. Accepting the contentions of learned Public Prosecutor, the Court below dismissed the petition. Aggrieved by the same, these present petitions are filed.

5. During hearing, learned counsel for the petitioner produced proof to satisfy this Court that daughter of the petitioner and his son-in-law are staying at U.K. and submitted that he own and possessed vast immovable property in the State of Andhra Pradesh and thereby question of staying at U.K. does not arise in normal course. Learned counsel would undertake that the petitioner will come back to India after attending his daughter's first wedding anniversary and drew the attention of this Court to the judgment of the Apex Court in ***Sanjay Chandra Vs. Central Bureau of Investigation***<sup>1</sup>.

6. Learned Special Public Prosecutor appearing for the respondent reiterated the contentions urged in the counter affidavit filed before the Court below and strongly opposed to grant relief claimed in these petitions.

7. The only reason, the petitioner assigned for his proposed visit to U.K., is his attendance on the occasion of his daughter's first wedding anniversary on 16-11-2017 and the question of his daughter's coming back to India for celebrating her wedding anniversary does not arise, as she is prosecuting her Masters Degree in Business Management in Coventry University, U.K. Undisputedly, the petitioner is arrayed as an accused in several cases involving thousands of crores of rupees but that by itself may not be a ground to deny permission. However, in case he did not return to India and stay at U.K., certainly it is difficult for the Court to proceed with the matters pending against him. Mere owning and possessing any property in India is not sufficient to grant permission to the petitioner to go abroad to attend the wedding anniversary of his daughter. The cause shown by the petitioner is not a serious cause and his presence is not imperative on such occasion. Even otherwise, the case of Vijay Malya, who allegedly evaded debt due to banks, is an example as to how

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<sup>1</sup> (2012) 1 SCC 40

matters are being delayed and in the present case also, if, for any reason, the petitioner did not return to India, there is every possibility of delaying in disposal of the cases pending and therefore the apprehension of the Special Public Prosecutor cannot be ruled out. Learned counsel for the petitioner has placed reliance on **Sanjay Chandra** (1<sup>st</sup> *supra*). In the above judgment, the Apex Court, after considering the time required to be consumed for trial, enlarged the petitioner therein on bail. However, consideration for grant of bail and granting permission to go abroad are totally distinct and the same cannot be applied to the present facts of the case.

8. No doubt, a right to go abroad is a fundamental right guaranteed under Article 21 subject to Article 19 (1) (d) of the Constitution of India and according to Article 21, no person can be deprived of his right of liberty except according to the procedure established by law. The Apex Court recognized the right to go abroad as a fundamental right in **P.Rathinam/Nagbhusan Patnaik Vs. Union of India and another**<sup>2</sup>, wherein the Apex Court enumerated various fundamental rights recognized by various Courts, one of which is right to go abroad. In the present case, the Apex Court issued a direction to the petitioner, while enlarging him on bail, not to leave the Country without the permission of the Court below and directed to surrender his passport before it. In view of the conditions imposed by the Apex Court, the petitioner is at liberty to approach the Court below seeking permission to go to abroad. However, the Court below has to exercise its discretion keeping in mind the gravity of the offences and the immense necessity to go to U.K. and pass appropriate orders. In the present case, the reason assigned by the petitioner to visit U.K. is to attend his daughter's first wedding anniversary and his presence is not imperative on that

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<sup>2</sup> AIR 1994 SC 1844

occasion except to bless the couple. Therefore, the cause shown by the petitioner is not sufficient to grant permission to go abroad *i.e.* to visit U.K. for a short period and return back. In order to avoid the consequences in future in the event of the petitioner's failure to return to India, it is appropriate to reject permission for the simple reason assigned by the petitioner *i.e.* attending his daughter's wedding anniversary to bless them though it is a family sentiment as it is not a just cause. Therefore, the order passed by the Court below is just and reasonable and such order cannot be interfered with by this Court. Hence, I find no ground to interfere with the impugned order and consequently, the petition is liable to be dismissed.

9. In the result, Criminal Petition No. 10481 of 2017 is dismissed. In view of the dismissal of Criminal Petition No. 10481 of 2017, question of return of passport of the petitioner does not arise and therefore Criminal Petition No. 10480 of 2017 is dismissed. Pending miscellaneous petitions, if any, in these petitions shall stand dismissed in consequence.

Date: 03-11-2017.

JSK

**M.SATYANARAYANA MURTHY, J.**