

\$~51

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

+ CRL.REV.P. 118/2017

K N AITHAL

..... Petitioner

Through: Mr. Amit Saxena, Advocate

versus

STATE (CBI)

..... Respondent

Through: Mr. Ripu Daman Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **06.02.2017**

Vide order dated 27th January, 2017, application of the petitioner for visiting United States of America from 31st January, 2017 to 30th July, 2017 has been rejected by the Trial Court. That is how the petitioner is before this Court, by way of this Revision Petition under Section 397 of the Code of Criminal Procedure read with Section 401.

It is not in dispute that the petitioner is also facing trial in RC No.219/2011, E-0012, CC No. 08/15, Under Section 120-B/420/467/468/471 IPC read with Section 13 (2) and 13 (1) (D) P C Act, which is pending before the Special Judge, CBI-01, Central/Delhi.

In the said case, petitioner has been granted the permission to visit the United States of America from 31st January, 2017 to 30th July, 2017 on the following terms and conditions:-

1. *Applicant/accused shall file the address and his contact number during his stay in USA along with the relevant documents supported with an affidavit.*

2. *Applicant/accused shall furnish additional FDR in the sum of Rs. Five Lacs with undertaking to report back to this Court on 30.07.2017.*
3. *Applicant/accused shall report back to this Court as and when directed by the Court with his passport, failing which the amount of FDR shall stand forfeited.*
4. *During his stay abroad, the applicant/accused shall appoint a counsel to appear in the Court, who shall represent the applicant/accused in his absence. Applicant/accused shall file the acceptance of that counsel along with his undertaking. The said Advocate would appear on the first call of the case.*
5. *The applicant/accused shall file the documentary proof on his return regarding the delivery of the baby of his daughter.*
6. *During his visit abroad, the applicant/accused shall not tamper with the evidence nor he shall try to contact any of the witnesses relating to the present case.*
7. *He shall not seek extension of his stay on any ground including medical ground.*
8. *He shall surrender his passport with the Court after his arrival from abroad.*
9. *The order can be withdrawn or modified at any stage if the circumstances so demand. The permission granted to the applicant/accused can be withdrawn at any time depending upon the circumstances. The applicant/accused shall have to appear before the Court as and when required to do so.*

It is submitted that petitioner and his wife could not visit their daughter till date as the permission has not been given by the trial court in this case. Petitioner's daughter has now delivered a child.

Petitioner and his wife are required there so as to take care of their daughter and the new born as well as the other child of their daughter, who is only three years old.

Learned SPP for the CBI has opposed this application. It is noted that the petitioner has already been granted permission to visit the United States of America with effect from 31st January, 2017 to 30th July, 2017 by the trial Court in another case. It is not in dispute that petitioner was permitted to go on the earlier occasions as well.

I do not find any justification not to grant the permission to petitioner to visit the United States of America in this case. Trial court ought to have granted permission when petitioner has been permitted to leave the country for about four months in the other case.

Accordingly, present petition is allowed and the petitioner is permitted to visit United States of America with effect from 10th February, 2017 till 30th July, 2017, on the terms and conditions as quoted above.

Dasti.

A.K. PATHAK, J

FEBRUARY 06, 2017/P