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

+ **W.P.(C) 7927/2017**

SH. MOHAN LAL SEHJPAL

..... Petitioner

Through Amit Saxena, Advocate with Mr Harday
Pratap Singh, Advocate.

versus

STATE (THROUGH C.B.I)

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.09.2017

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a) a writ or writs in the nature of mandamus or in the nature of certiorari or any other appropriate writs directing the respondent to release the Original Passport of the petitioner bearing No. Z-2301226 forcibly and illegally taken by respondent on 27.08.2017 w.r.t. case no. RC.BD1/2014/E/2004 P.S: CBI/BS&FC/New Delhi under Section 120-B r/w 409, 411/420/467/468/471/474 IPC in which the petitioner has no role;

b) Exemplary costs be imposed upon the respondent to compensate the petitioner for the harassment and undue hardships undergone by the petitioner and the losses suffered by him due to the said illegal act of the respondent;

c) Any other order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner and against the

respondent.”

2. The petitioner was summoned by the Investigating Officer, CBI (I.O.) for investigation/inquiry in a case bearing No. RC.BD1/2014/E/2004 P.S:CBI/BS&FC/New Delhi under Section 120-B r/w 409/411/420/467/468/471 IPC. During the course of the investigation the IO directed the petitioner to surrender his passport and accordingly, on 03.03.2014 the petitioner handed over his original passport (bearing No. Z-2301226 to him by Production-cum-Seizure Memo dated 03.03.2014.

3. The CBI finally filed a charge sheet in the case titled “*State (CBI) v. Nirmal Singh Bhangoo & Ors.*” on 07.04.2016 and, concededly, the petitioner is not arrayed as an accused in that case. The petitioner requested for release of his passport but was informed to approach the concerned Court for the same in August, 2016.

4. The petitioner states that he was required to visit his son - who is in Australia - as he was taken unwell. Therefore, the petitioner filed an application for release of his passport in the Court of Ms Charu Aggarwal, CMM (West), Tis Hazari Courts, Delhi. In response to the said application, the Court was informed that the petitioner’s passport had been deposited with the Regional Passport Officer, Chandigarh (RPO) and the petitioner should approach the said office for release of his passport.

5. In view of the above, the petitioner approached the RPO Chandigarh; who also declined to release the petitioner's passport. This led the petitioner to file a writ petition [No. W.P. (C) 4373/2017] in this Court for release of

his passport. The said petition was disposed of by an order dated 19.05.2017, whereby this Court directed the PRO to either initiate appropriate action for cancelling the passport or release the same to the petitioner.

6. Thereafter, the PRO released the passport to the petitioner and the petitioner made his arrangement to travel to Australia on 27.08.2017.

7. After the petitioner and his wife obtained the boarding pass to board the flight, his passport was once again taken from him. The petitioner alleges that his passport was seized by the CBI, however this is disputed and the learned counsel for the respondent, who states that the passport was seized by the immigration authorities. On further enquiry from the learned counsel for the CBI, he states, on instructions, that the passport was seized by the Immigration Officials as the Look Out Circular (LOC) issued against the petitioner had, inadvertently, not been cancelled/withdrawn.

8. Inspector Anit Rawat, the IO is present in Court and he states that the passport could not be returned to the petitioner as he was on medical leave. However, the petitioner was called to collect his passport from the office of CBI on 07.09.2017 but he has not collected the passport as yet.

9. It is seen from the above that the petitioner has been deprived of his passport since 2014. The right to free movement is an integral facet of the fundamental rights of a citizen and depriving a citizen of a passport curtails such right (see : *Maneka Gandhi v. Union of India (1978) 1 SCC 248*) Thus, the action of seizing or causing a passport to be seized must be initiated with certain amount of circumspection and only when such action is

necessary. This Court is unable to appreciate the callous manner in which the same has been done in this case. Whilst the CBI had issued the Look Out Circular, the necessary steps for cancellation of the same were not admittedly taken.

10. In view of the above, the petition is allowed. The respondent, the CBI, is directed to release the passport to the petitioner forthwith. Considering the manner in which the petitioner has been prevented from leaving this country this Court is of the view that award of costs is warranted and directs the respondent to pay a cost of ₹10,000/- to the petitioner.

11. The petition is disposed of.

VIBHU BAKHRU, J

SEPTEMBER 08, 2017

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