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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.368 OF 2018

S.Dhamodaran

..Petitioner.

V/s.

State of Maharashtra & Anr.

..Respondents.

Mr.F.Sayyed i/b. M/s. Manilal Kher Ambalal & Co. for the petitioner.

Mrs.S.S. Kaushik, APP for the respondent-State.

Mr.Shishir Hiray for respondent – UOI/CBI.

CORAM: NITIN W.SAMBRE, J.

DATE : MAY 2, 2018

PC.:-

In case No.760/CPW/2009, which is pending on the file of Additional Chief Metropolitan Magistrate 3rd Court Esplanade, Mumbai for offences punishable under section 409, 420, 468, 471, 477(A) read with 120-B of the Indian Penal Code, a bank officer is arrayed as an accused.

2. He has sought directions against the Passport Officer to renew his Passport as no condition in any of the orders, till date

putting an embargo for renewal of the passport was incorporated. According to the petitioner, his Passport was earlier renewed from time to time since 2006. By the impugned order, though his Passport is renewed for a period of ten years, however, condition is incorporated that the petitioner shall not leave India without the permission of the Court. This condition is questioned in the present petition.

3. It is the case of the petitioner that in view of the pendency of the proceedings before this Court as well as in trial Court at the behest of the other co-accused, the trial is not proceeding ahead. According to him, he travelled abroad for one or other reason, and in the past from the year 2006 he has made 19 trips, however, no permission of the Court was required. According to him, for no good reason a condition is incorporated in the order impugned for seeking prior permission of the Court to leave the country.

4. *Per contra*, the learned counsel for the CBI would oppose the claim for relaxation of the condition as according to him, the present situation warrants incorporation of the condition

as is ordered by the Court. He would further urge that the condition is reasonable and prays that the petition be dismissed.

5. Having considered the rival submissions, it is not in dispute that the trial before the Court of Additional Chief Metropolitan Magistrate is already delayed however, for the said delay, no blame can be attributed to the petitioner. Apart from above, the petitioner-accused has admittedly travelled 19 times from 2006 onwards when there was no permission required either from the CBI or any other Courts as no condition was incorporated to that effect while even ordering his release on bail.

6. In view of such eventualities, it would be appropriate, in my opinion, to modify condition No.II of the impugned order dated December 21, 2017 passed by the Additional Chief Metropolitan Magistrate 3rd Court Esplanade, Mumbai as under:-

- (a) The petitioner shall furnish personal undertaking to the said Court of Additional Chief Metropolitan Magistrate 3rd Court Esplanade, Mumbai to the effect that in case if he leaves the country, he shall report back and face the trial and shall not avoid or protract the trial;

- (b) Before leaving the country, atleast about a week in advance, he shall give the entire details of his travel (travel intinery) to the investigating agency, including tthat of his place of residence, contact number, contact details, e-mail address etc.;
- (c) In case of any exigency, liberty to respondent-C.B.I. to approach for modification of this order;

7. With the above observations, the petition stands disposed of.

(NITIN W.SAMBRE, J.)