

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14.09.2018

CORAM
THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
CRL.OP.No. 20710 of 2018

M.Palaniappan

...Petitioner/Accused -5

Vs

State by:
Inspector of Police,
CBI/ACB,
Chennai.

.... Respondent/Complainant

PRAYER: Criminal Original Petition filed under section 482 of Code of Criminal Procedure, to call for records and set aside the order passed by the Learned IX Additional Special Judge, (FAC), XIII Additional Special Judge for CBI Cases, Chennai in Crl.M.P.No. 1946 of 2018 order dated 27.06.2018 in C.C.No.1 of 2013 and permit the petitioner to go to Singapore to visit his son's family and to stay there for a period of 2 months.

For Petitioner : Mr.K.R.Ramesh Kumar

For Respondent : Mr.K.P.Srinivasan
Special Public Prosecutor
(CBI) cases

ORDER

The petition has been filed to set aside the orders passed by the learned IXth Additional Special Judge (FAC) XIII Additional Special Judge for CBI cases, Chennai in Crl.M.P.NO. 1946 of 2018 dated 27.06.2018 Chennai in C.C. No.1 of 2013 denying permission to the petitioner for travelling to Singapore.

2. The petitioner is arrayed as No. 5 in this case. He along with 30 other accused, are tried for alleged offences under section 120 -B r/w 420, 468, 471 IPC and sections 7, 8 and 13(2) r/w 13(1) (a) (d) of the Prevention of Corruption Act 1988.

3. The case of the prosecution is that based on the reliable information, that the officials of the Customs Department working in the Unaccompanied Baggage Unit of Air Customs Cargo Complex, Chennai Airport obtained, illegal gratification from the passengers who came from abroad for clearing their unaccompanied baggages and that the accused had obtained illegal gratification from the passenger and importers charging less or no duty through one G.Kumar one private person,

who is also one of the accused. Between 6.30a.m. and 9.30 a.m., a surprise check has been conducted at the Air Customs Cargo Complex, Chennai Airport in the presence of witnesses. During the surprise proceedings, A1 to A9 who were working as Superintendents, Preventive Officers and Senior Tax Assistant in unaccompanied Baggage Unit of Customs, Chennai Airport, had demanded illegal gratification from the passengers who came from abroad, their agents, importers, Clearing House Agents etc., and that in this case demanded and accepted illegal gratification, from the passengers on behalf of A1 to A9 and further a sum of Rs.7.8 lakhs, he has been obtained as illegal gratification by A10 on behalf of A1 to A9 and apart from this, Rs. 36,000/- was recovered from the car, which was in the possession of A1. On completion of the investigation, charge sheet has been filed against the accused and the trial is in progress.

4. The Learned Counsel for the petitioner would submit that the petitioner applied for passport before the Regional Pass Port Authority, during October 2017 along with the "written permission" granted by the Trial Court vide order dated 06.10.2017 in CrI.M.P.No. 3531 of 2017. Based on the written permission, Pass Port has also been issued to him. He would submit that petitioner's elder son P.Maheshwaran is working as a Programme Manager in Standard Chartered Bank in Singapore and he is residing at Singapore along with his wife and children and the grandchildren of the petitioner are studying class 8 and class 3 respectively. He would also submit that the son has got a permanent residence at Singapore at Block No. 212 B, 04-121, Compassvale Drive, Sengkong, Singapore. The Learned counsel would submit that the petitioner is now living with his second son V.Sathyanarayanan who is presently the Managing Director & COO of Asia Pacific, ALPHAPETA INC, Chennai - 20 and that the petitioner is residing permanently at Plot No.8, Kalyani Ponnappan Avenue, Kothagiri Nagar, Ramapuram, Chennai - 89 along with his second son's family and that his children are also studying in Padma Seshadri Bala Bhavan Senior Sec. School, K.K.nagar, Chennai - 78. The Learned counsel would submit that the petitioner is aged 66 years and a senior citizen and he has also lost his wife very recently and that permission was sought for by him travel to Singapore to see his grandchildren. He would submit that the grandchildren of the petitioner are eagerly wanting to see their grandfather and they are unable to travel to India due to nonavailability of leave and holidays. The petitioner had sought permission from the Court to visit the grandchildren for a period of six weeks. He would submit that learned judge had held that if family members of the elder son wanted to meet the petitioner, they can very well come to India and meet the petitioner and other family members of the petitioner and further holding that the petitioner has not filed the petition with genuine reason had dismissed the petition and thereby rejecting permission to the petitioner to

travel to Singapore.

5. The learned counsel would submit that the petitioner is seeking permission only on humanitarian and sympathetic consideration, the eagerness of a sexagenarian to visit his grandchildren and spend time with them for a limited period. He would also submit that the petitioner has also got permanent roots in India. He would also submit that the petitioner is suffering from heart problem and he has been fixed with pacemaker and seek indulgence of this court on humanitarian consideration only. The learned counsel for the petitioner would also submit that the petition has filed an affidavit before this court submitting that the younger son of the petitioner who is also well placed being the Managing Director and Chief Officer- Asia Pacific, ALHAPETA INC, Chennai-20, will stand as surety to him and that the petitioner and his younger son will give undertaking before the Trial Court that he will return to India after completing his travel to Singapore within the specified time at any cost. He would also submit that in the affidavit of undertaking he had also submitted that he will co-operate with the trial proceedings and would submit when the case is heard in his absence and if the witness are produced, his counsel will get along with the cross examination of witnesses and the counsel will not seek time on the ground of absence of the petitioner before the Trial Court. The learned counsel would also submit that there are totally 211 witnesses in this case and that so far, only 4 witnesses have been examined and he would also submit that the case is under trial and the case is posted for further examination of witness on 24.09.2018. He would submit that the case of the petitioner may be sympathetically considered and permission may be granted to travel to Singapore for a period of six weeks.

6. The respondent had filed a counter raising serious objections stating that trial of this case is in progress and that the presence of the petitioner is very much required for each hearing and it has also been averred in the counter that if permission is granted for visiting Singapore, there is a chance that he may abscond from the trial of this case.

7. Heard both sides.

8. The petition has been filed by the petitioner seeking permission to travel Singapore to see his grandchildren. The request had been sought for only on humanitarian consideration stating that the petitioner is Senior Citizen with heart ailments and that he has to visit his grandchildren who are at the present unable to travel to India. Further the petitioner had also filed the affidavit stating that he will not be the cause for delay in the Trial at any cost and he has also stated that his Younger son who holds a responsible position in a MNC company and well placed in India will stand as surety to ensure

that the the petitioner will come back to India after six weeks. This Court is of the opinion that no prejudice would be caused to the respondent if permission is granted to the petitioner to travel to Singapore for a period of Six weeks.

9. The order passed by the Trial court is set aside and permission is granted to the petitioner to travel to Singapore for a period of Six weeks from the date of departure during the month of October and on further condition a) the petitioner shall produce the copy of the return ticket along with the Itinerary of travel and details of his stay at Singapore b) The younger son of the petitioner Mr.V.Sathyanarayanan and one another family member of the petitioner shall stand as surety before the Trial Court and they shall execute a bond for a sum of Rs.50,000/-each. c) The petitioner as per undertaking, shall not delay the trial at any cost. d) The petitioner shall restrict his travel to Singapore alone and on return from Singapore the petitioner shall report before the Trial Court within a week of arrival and return the passport to the custody of the Trial Court.

10. In view of the above, the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsn/jas

To

1. The Inspector of Police,
CBI/ACB,Chennai.
2. The IX Additional Special Judge (FAC),
XIII Additional Special Judge for CBI cases,
Chennai.
3. The Special Public Prosecutor (CBI Cases),
High Court of Madras.

+1cc to Mr.K.R.Ramesh Kumar, Advocate, S.R.No.63862.

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NMI (CO)

rrs 11/10/2018