

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.28652 of 2018

J.Sekar

.. Petitioner

Vs.

State Rep. by
Deputy Superintendent of Police
Central Bureau of Investigation, ACB
Chennai

... Respondent

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to relax the conditions imposed in respect of travel and surrender of passport, upon the petitioner in Crl.M.P.No.653 of 2017 dated 17.03.2017 in Crime No.RC MA1 2016 A0040 on the file of the learned XI Additional Special Court for CBI Cases, Chennai and direct the Learned XI Additional Special Court for CBI Cases, Chennai to return the Petitioner's passport bearing No.G7337104 for his travel.

For Petitioner : Mr.Vijayamahenath
For Respondent : Mr.K.Srinivasan
Spl.P.P. (CBI Cases)

O R D E R

The petitioner has filed this Criminal Original Petition under Section 482 Cr.P.C., to relax the conditions imposed in respect of travel and surrender of passport, upon the petitioner in Crl.M.P.No.653 of 2017 dated 17.03.2017 in Crime No.RC MA1 2016 A0040 on the file of the learned XI Additional Special Court for CBI Cases, Chennai and direct the Learned XI Additional Special Court for CBI Cases, Chennai to return the Petitioner's passport bearing No.G7337104 for his travel.

2.The petitioner was implicated for the offences under Sections 120B r/w 409, 420 of IPC and 13(2) r/w 13(1)(C) & 13(1)(d) of PC Act, 1988 and arrayed as A1. The respondent filed two other RC MA1 2016 A 0051 & 52 for the same offences and was arrested on 21.12.2016 and enlarged on bail by the Trial Court. While granting bail to the petitioner, the Trial Court imposed

conditions on the petitioner that the petitioner should not leave the country without the permission of the Court and to surrender his passport.

3.The learned Senior counsel would submit that the other conditions imposed by the Trial Court has already been relaxed by this Court except releasing of passport. The learned Senior counsel would further submit that the passport has already been expired and it is necessary to renew the passport for the purpose of travelling abroad, under the Passport Act, 1967. Hence, the present petition has been filed for releasing the passport to renew the same.

4.The learned Special Public Prosecutor (CBI Cases) appearing for the respondent would submit that SPE, CBI, ACB, Chennai registered a case in Crime No.RC MA1 2016 A 0040 on 19.12.2016 under Section 120B r/w 409 & 420 IPC. Sec. 13(2) r/w 13(1)(c)(d) of PC Act, 1988 against the petitioner and other accused persons i.e. A3, unknown Bank Officials and Public Servants. Further A4, A5 & A6 were arraigned as accused. The FIR of this case is pending before the learned XI Additional Special Judge for CBI Cases Chennai.

5.The learned Special Public Prosecutor would further submit that the petitioner has not cooperated with investigation during bail relaxation period and gave evasive replies with regard to his involvement of the accused persons in the matter of conversion of Old Currency into NHD Currency. The said facts were reported to the learned XI Special Judge for CBI Cases when the petitioner filed petition for total relaxation of bail conditions. As such, the learned XI Special Judge for CBI Cases dismissed the petition of the petitioner.

6.The learned Special Public Prosecutor would further submit that the Government of India has given a detailed notification / guidelines in respect of the renewal and applying for a fresh passport and for travelling abroad. The relevant notification of MINISTRY OF EXTERNAL AFFAIRS Notification New Delhi, the 25th August, 1993 "G.S.R. 570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 and in super session of the notification is extracted hereunder:

"..notification of the Government of India in the Ministry of External Affairs No.G.S.R.298 (E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who

produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section(2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued -

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time

during the continuance in force of the passport so issued.

7.However, the learned Special Public Prosecutor submitted that this Court cannot pass any order for the renewal of the passport without impleading the Passport Authority as party.

8.In view of the above, I am not inclined to entertain this petition at this stage. Accordingly, this petition is closed. Liberty is given to the petitioner to file appropriate petition before the appropriate Court as per guidelines issued by the Government of India, if so advised.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To.

- 1.The XI Additional Special Court
for CBI Cases, Chennai
- 2.Deputy Superintendent of Police
Central Bureau of Investigation, ACB
Chennai
- 3.The Special Public Prosecutor (CBI Cases)
High Court of Madras

+1cc to Mr.Vijayamahenath, Advocate sr.no.86314

Cr1.O.P.No.28652 of 2018

rk(co)
nr 07/01/2019

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