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

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Judgment delivered on: 17.12.2018

+ CRL.REV.P. 1097/2018

EJIME DAVID

..... Petitioner

versus

STATE

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Anoop Kr. Gupta, Adv.

For the Respondent : Mr. Hirein Sharma, Addl. PP for the State with SI
Vishan Kumar

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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05.12.2018

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns judgment dated 31.08.2018 whereby the request of the petitioner seeking permission to take the petitioner to Nigerian High Commission for collection of passport has been rejected by the trial court.

2. The trial court has rejected inter alia on three grounds:-

- i) As petitioner is in custody and as such does not require his passport;
- ii) After his acquittal or conviction he may be deported out of India and there is no need on the part of the petitioner for making efforts at his own level and there is a possibility of misuse/illegal use of Passport/VISA; and
- iii) Petitioner is being tried for the offence under Section 14 of the Foreigners Act.

3. Impugned order is clearly unsustainable. The petitioner merely wants to collect his passport which as per the petitioner has been renewed by the Nigerian High Commission. The petitioner was earlier permitted by the Trial Court to be produced before the Nigerian High Commission in judicial custody for taking his biometrics.

4. No prejudice would be caused to the prosecution in case the petitioner is taken to Nigerian High Commission for collection of his passport, in custody, and thereafter the passport is deposited with the trial court to await the outcome of the trial.

5. In view of the above, impugned order dated 31.08.2018 is set aside to the said extent.

6. Superintendent (Jail) is directed to make arrangements to have the petitioner taken to the Nigerian High Commission for collection of his passport on 03.01.2019 at 10 a.m. in police custody. The IO shall accompany the petitioner for the purpose of collection of his passport on 03.01.2019.

7. The passport after collection shall be deposited by the IO with the trial court to await the outcome of the trial.

8. The petition is disposed of in the above terms.

9. Order *dasti* under signatures of the Court Master.

DECEMBER 17, 2018
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SANJEEV SACHDEVA, J