

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighth day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.9212 and 9214 of 2019

in CRL A.NO.369 OF 2019

S.R.SRIDHAR

[PETITIONER

IN BOTH THE PETITIONS]

vs

STATE REP. BY

INSPECTOR OF POLICE,
SPECIAL POLICE ESTABLISHMENT,
CENTRAL BUREAU OF INVESTIGATION,
ECONOMIC OFFENCE WING,
CHENNAI, R.C.NO.8(E)/1996.

[RESPONDENT

IN BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.369/2019 on the file of the High Court, the High Court will be pleased to

[I]exempt the condition dated 25.06.2019 imposed against the petitioner in Crl.MP.No.8079 of 2019 to appear before the trial court on the first working day of every month, pending appeal in Crl.A.No.369 of 2019 till October, 2019.[CRL.MP.NO.9212/2019]

[II]Grant me the permission to travel abroad for 2 months ie., 01.08.2019 to 30.09.2019 and to direct the passport authority to renew my passport bearing No.R0841116 for 10 years. [CRL.MP.NO.9214/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.369/2019 on the file of the High Court and upon hearing the arguments of M/S.SOMASUNDARAM A.V Advocate for the petitioner and of MR.K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR FOR CBI CASES, on behalf of the Respondent the court made the following order:-

The Criminal Miscellaneous Petition No.9212 of 2019 has been filed to exempt the condition dated 25.06.2019 imposed against the petitioner in Crl.M.P.No.8079 of 2019 to appear before the Trial Court on the first working day of every month, pending appeal in Crl.A.No.369 of 2019 till October, 2019 and the Criminal Miscellaneous Petition No.9214 of 2019 has been filed to grant permission to the petitioner to travel abroad for 2 months i.e., from 01.08.2019 to 30.09.2019 and to direct the Passport Authority to renew his Passport bearing No.R0841116 for 10 days.

2.The petitioner has been found guilty and convicted in C.C.No.36/1998, by the learned Principal Special Judge for CBI Cases, Chennai, by Judgment dated 11.06.2019, for the offences under Sections 120 B r/w 420, 109 r/w 420, 467, 471 r/w 467, 468 IPC r/w 13 (1) (c) and (d) of the Prevention of Corruption Act, 1988 and sentenced to undergo Rigorous Imprisonment for a period of 3 years and also to pay a fine amount of Rs.10,000/- in default to undergo Simple Imprisonment for 9 months for the offences u/s.120 B r/w 420, 109 r/w 420, 467, 471 r/w 467, 468 IPC and for offence under Section 13(2) r/w 13(1) (c) and (d) of the Prevention of Corruption Act, 1988 and was sentenced to undergo Rigorous Imprisonment for a period of 3 years and also to pay a fine amount of Rs.10,000/- in default to undergo Simple Imprisonment for 9 months. Against the conviction, the petitioner had filed Criminal Appeal No.369/2019 before this Court, and this Court by order dated 25.06.2019, had suspended the sentence imposing the condition that the petitioner shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders, pending appeal.

3.In the present petitions, it has been stated that during the trial, the petitioner was permitted to renew his passport by the Trial Court in Crl.M.P.No.1044/2017 vide order dated 23.03.2017 and thereafter, he had resubmitted his passport before the Trial Court after renewing his Visa on 20.06.2017. The validity of the petitioner's passport issued on 01.06.2017 got expired on 31.05.2018 and whereas, the Visa granted to him, by the Government of USA is valid for a period of 10 years up to 05.06.2017. Further, in the petitions it had been stated that the petitioner is a retired Chief Manager of the Indian Bank having completed 30 years of service and the petitioner's son Mr.Balaji Sridhar is working as Electrical Engineer in Minneapolis, USA and that his marriage was fixed during the month of July 2019 and thereby, the petitioner had filed a petition seeking to permit him to renew his passport and travel to USA.

4.The respondent had filed a counter, stating that the petitioner had been convicted by the Trial Court and that Section 6 (2)(e) of the Indian Passport Act, 1967, provides for refusal of, passport by the authority, on the ground that the applicant has, at any time during the period of five years immediately preceding the date of his application, has been made as a convict by a Court in India for any offence involving moral turpitude and sentenced in respect thereof, to imprisonment for not less than 2 years and that in this case, the petitioner had convicted to undergo R.I for 3 years. Further objection had been raised stating that if the petitioner is permitted to renew his passport and allowed to travel abroad, he may not come back in order to undergo the period of sentence, imposed by the Trial Court.

5.Heard the learned counsel on both sides.

6.The learned counsel for the petitioner/appellant would submit that during the pendency of the trial, the petitioner was earlier granted permission to obtain new passport and that he was also permitted to travel to USA on conditions imposed by the Trial Court.

In due compliance of the conditions imposed, the petitioner had travelled to USA and came back to India and surrendered the passport before the Trial court. He would submit that the petitioner has not misused the liberty granted to him at any time. He would also submit that the petitioner had intended to travel to USA to attend his son's marriage. However, the marriage was held on 06.07.2019 and that since his son and his daughter-in-law are unable to travel to India, the petitioner along with his wife had intended to travel to USA to visit his son and daughter-in-law and bless them. He would further submit that the petitioner's daughter is also working in USA and settled at New Jersey and that both the children are well settled in USA and that both of them are Green Card holders. He would submit that the son of the petitioner is a permanent resident at 5236, Bloomington Ave, Minneapolis, MN55417, USA and his daughter-in-law is a permanent resident at No.40, New Port, DKWY Apt 2605, Jersey City, New Jersey-07310, USA. The learned counsel would further submit that by Notification of the Ministry of External Affairs, New Delhi, dated 25.08.1993 in G.S.R.570(E), the petitioner has to approach this Court to seek permission. He would submit that as per the Passport Act and the Rules and the Notification issued thereunder, the petitioner is entitled for a renewal of passport and since the appeal is pending before this Court, the petition has been filed seeking permission for renewal of passport and also seeking permission to travel abroad. He would further submit that the petitioner is prepared to abide by any condition that may be imposed by this Court and that he is prepared to give necessary undertaking that he will return to India within 2 months from the date of his travel abroad after renewal of his passport.

7.The learned Additional Public Prosecutor would submit that the petitioner had been convicted for 3 years and that his children are Green Card holders and that there is every possibility that the petitioner may not return back to India. However, he would submit that the petitioner was granted permission to travel abroad during pendency of the trial and he had returned to India in due compliance of the order passed by the learned Trial Judge.

8.Taking into consideration, the petitioner has sought for permission to attend the marriage of his son and now since the marriage has been over, a request has been made seeking permission to travel to USA to bless the newly wed. The petitioner had been earlier granted permission to travel abroad during the pendency of the trial and in due compliance of the conditions imposed by the Trial Court, the petitioner had returned. It is submitted that the expired passport is in the custody of the Trial Court.

9.This Court is of the opinion that the permission may be granted to the petitioner to renew the passport and to travel abroad subject to certain conditions.

10.In view of the above, the direction is issued to the learned Trial Judge, to return the expired passport to the petitioner, which is in his custody. On such return, the petitioner shall file necessary applications for renewal of the passport on condition the

petitioner shall execute a bond for Rs.25,000/- [Rupees Twenty Five thousand only] with two sureties for the like sum before the Trial Court. He shall also give the details of his address and telephone number in USA and he shall also undertake that he will return to India within two months from the date on which he leaves India. Further, during the period of travel to USA, the petitioner is exempted from appearing before the Trial Court and thereafter, he shall comply with the condition of appearing before the Trial Court on the first working day of every month at 10.30 a.m., until further orders. It is further made clear, that on returning to India, the petitioner shall surrender the passport before the trial Court.

11. With this observation, the petitions stands closed.

-sd/-

08/08/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SPECIAL JUDGE FOR CBI CASES,
VIII ADDITIONAL CITY CIVIL COURT,
CHENNAI

2 THE SPECIAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS. CBI CASES

3 THE INSPECTOR OF POLICE,
SPECIAL POLICE ESTABLISHMENT,
CENTRAL BUREAU OF INVESTIGATION,
ECONOMIC OFFENCE WING,
CHENNAI, R.C.NO.8 (E)/1996.

+4 C.C. to M/S.SOMASUNDARAM A.V. Advocate on payment of
necessary charges SR.NO. 16606,16607

Order

in

CRL MP.9212 & 9214 /2019

in CRL A.NO.369 OF 2019

Date :08/08/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RD 09/08/2019

<https://hcservices.ecourts.gov.in/hcservices/>