

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35162 of 2019 (O&M)

Date of decision :19.12.2019

Paul Kalechi Ukwusike

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr.S.S.Gill, Advocate, for the applicant/appellant.

AMOL RATTAN SINGH, J. (ORAL)

On 19.11.2019, the following order had been passed:

“ Pursuant to the order dated 30.09.2019, Shri Mukhwinder Singh, Deputy Commissioner of Police, (Detective), Amritsar City, is present in Court, with learned State counsel having filed an affidavit of the said officer in Court today, a copy of which has been given to learned counsel for the petitioner.

A perusal thereof shows that information regarding the arrest of the petitioner was sent to the Director, Bureau of Investigation, Punjab and to the ADGP (Intelligence), Punjab, by the Commissioner of Police, Amritsar, on 27.09.2017, for onward submission to the Nigerian Embassy, New Delhi. Thereafter, the Director Bureau of Investigation further made a communication to the Asstt. Director, Central Bureau of Investigation, NCB-India, Interpol, New Delhi, for forwarding the information to the concerned authority on 03.11.2017, and for providing the passport details and date of birth of the petitioner.

However, the information sought by the Director Bureau of Investigation in respect of the details of the passport and date of birth of the petitioner were not provided by the concerned authority (obviously the concerned department in the CBI).

It has next been stated that the first Investigating

Officer in the case, i.e SI Kulwinder Singh, retired from service on 31.07.2019, with the subsequent Investigating Officer, SI Sarwan Singh, having unfortunately expired on 10.02.2019.

Thereafter, it has eventually been stated that the information has now been received from the SHO, Police Station Govind Puri, District South East Delhi, that the petitioner was residing on rent in that area and that a copy of his visa had been annexed with the 'Tenants Register' on 13.07.2017, with the visa being valid from 23.08.2016 to 22.08.2017, and the date of birth of the petitioner being 12.07.1970.

A fresh letter is also stated to have now been written to the Director, Bureau of Investigation, Punjab, with regard to the aforesaid details, and further, it has been stated that a communication has also been addressed to the Foreigners Regional Registration Office at Amritsar (FRRO) on 12.11.2019, to provide the travel history of the petitioner as also to check the genuineness of his passport and visa.

Though obviously the said information as has been obtained now from Police Station Govind Puri, New Delhi, could have very well been obtained even two years ago after the FIR was registered, without making any further comment on that, since the first Investigating Officer is stated to have retired (though obviously he can be proceeded against by the department within 4 years after his retirement too), yet it is considered appropriate that a status report with regard to what has been obtained from the officers who have been written to, be filed by the DCP by the next date of hearing.

It is also stated by learned State counsel that the petitioner's passport was valid upto 20.02.2019.

Despite the fact that it has been stated in the affidavit of the DCP that the petitioner's visa (seemingly issued by the Indian Embassy in Nigeria) expired about a month before the petitioner was arrested, learned counsel for the petitioner still submits that the petitioner deserves the concession of bail, with him further submitting that the entire evidence was recorded behind the petitioners' back in the trial Court, with him never having been produced in that Court during the time when the

evidence was recorded.

As regards the contention that the petitioner deserves to be released on bail, even though on the date that the FIR was registered, i.e 16.09.2017, his visa to visit India had already expired about 25 days earlier, learned counsel would address arguments in terms of any law that he wishes, to cite that the petitioner deserves the concession of bail. As regards him not having been produced before the trial Court with evidence stated to have been recorded behind his back, the trial Court is directed to put up a report to this Court on the next date of hearing, annexing therewith all orders passed from the date when the first prosecution witness was examined, till the date that the last prosecution witness was examined.

Adjourned to 19.12.2019.

A copy of this order be given to learned counsel for the State under the signatures of the Bench Secretary of this Court.”

In this petition, the petitioner seeks to be admitted to bail.

Today, learned counsel submits that with all witnesses having been examined, with only the final order to be passed which has been stayed vide an order passed in this petition, the petitioner no longer wishes to pursue this petition.

However, it is to be stated here that if the trial Court comes to the conclusion that the petitioner is to be acquitted, then he would be released from custody only subject to a *visa* being granted to him by the competent authority in India, failing which proceedings as per law would be taken for his deportation, very expeditiously.

With the aforesaid observation, this petition is dismissed as withdrawn.

19.12.2019

anil

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned = Yes/No.

Whether reportable= Yes/No.