

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

Judgment reserved on: 06.11.2019
% Judgment delivered on: 14.11.2019

+ **W.P.(CRL) 3085/2019**

NARINDER SINGH NARANG & ANR Petitioners

Through Mr. Gurmeet Singh, Adv.
with Ms. Vidushi Jain Adv
for petitioners along with
petitioners Narinder
Singh Narang and
Ravinder Kaur Narang
in person

versus

STATE Respondent

Through Ms. Richa Kapoor, ASC with
Ms. Shivani Sharma and Ms.
Saloni Jain, Advocates.
Insp. Ravinder Pandit PS
C.R.Park

CORAM:
HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J.

1. Vide this Judgment, I shall dispose of a petition filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. against impugned order dated 18.10.2019 passed by Ld.

M.M. Sh.Harun Pratap, Saket Courts, South-East District, New Delhi in the application for release of passport and permission to go abroad in FIR No. 87/2017 PS Chitranjan Park.

2. While praying for release of passport and permission to go abroad, the petitioners have pleaded that they were enlarged on bail vide order dated 26.04.2019 passed by Ld. M.M. Harun Pratap, Saket Courts, South East District, New Delhi subject to certain conditions and one of the condition was that the petitioners shall not leave the country without taking prior permission of the court and they will surrender their passports as per the undertaking given on their behalf by their counsel.

3. It is further submitted that petitioner Sh. Narinder Singh Narang and Smt Ravinder Kaur Narang are 69 years and 68 years old respectively and have always been inclined towards religious activities and are firm followers of Sikh religion. It is further submitted that from 06.11.2019 to 15.11.2019, there shall be a grand Kirtan organized in Lahore city of Pakistan by the Sikh community and said Kirtan is being organized after a gap of 100 years. It was

last organized in the year 1919 and it invokes a lot of religious sentiments among the followers.

4. It is further submitted that it was one of condition of the bail that petitioners shall not leave the country without taking prior permission of the Hon'ble Court, and therefore, the petitioners moved an application under Section 437(3) Cr.P.C. before Ld. MM Sh. Harun Pratap, Saket Courts, South-East District, New Delhi for modification/alteration of order dated 26.04.2019 seeking permission from the Hon'ble Court so that the petitioners may be allowed to attend the said Kirtan in Lahore Pakistan. However, the same was withdrawn as it was advised that proper remedy will be to file an application before Ld. Sessions Court for the release of passports and permission to travel abroad. Thereafter, an application was filed before the Ld. ASJ. The Ld. ASJ, however, granted liberty to the petitioners to move similar application before the Ld. MM. Thereafter, an application was filed before the Ld. MM for release of passports and permission to visit abroad. Ld. MM, however, issued notice to the complainant despite the objection of the petitioners that no notice ought to have been issued

to the complainant. He had also fixed the date for 01.11.2019. Subsequently, a Writ Petition bearing no. 2826/2019 was filed before this Hon'ble Court and this court had preponed the date of hearing to 15.10.2019 and directed the Ld. MM to decide the application as expeditiously as possible. It is further submitted that the Ld. MM has, however, dismissed the application vide order dated 17.10.2019.

5. It is further submitted that submissions were made before the Ld. MM that petitioners may be allowed to go Pakistan only and order be sent to Ministry of External Affairs and Immigration Department so that petitioners would not be able to fly anywhere else. However, no heed was paid to the said request. Ld. MM has passed the impugned order in haste, disregarded the principles of natural justice and in a biased manner. The order passed by Ld. MM is perverse. It is further submitted that petitioners are not going to flee from the process of law and therefore, it is prayed that in the interest of justice, the order dated 18.10.2019 be set aside and passports of the petitioners be released and they be allowed to visit

Pakistan to attend religious ceremony from 06.11.2019 to 15.11.2019.

6. Ld. Counsel for the petitioner has relied upon a case titled **‘Subash vs. State, Crl. R.C. no. 111 of 2019, decided on 01/02/2019’** wherein Hon’ble High Court of Madras has held that the order regarding condition to surrender the petitioner’s passport before the court was illegal.

7. Ld. APP for the state has opposed the petition and has also submitted that the petitioners are not stating true facts. They were never asked to surrender their passport but they had themselves willingly offered to surrender their passports at the time of grant of bail and it was on their submission that their passports were kept on record. Ld. APP has further submitted that allegations against the petitioners are very serious in nature. They have committed cheating as well as forgery not only with HDFC Bank and Punjab and Sindh Bank but also cheated the complainant for a huge amount. They had not joined the investigation and were declared PO on 15.03.2018. They were later on arrested after about one year i.e. on 24.03.2019. The son and daughter-in-law of the petitioners, who are also accused persons in this case, are also not joining the

investigation and NBWs have been issued against them. The petitioners are also not residing at the given address. An application for cancellation of bail of petitioners has also been filed by the complainant and the same is pending for disposal. The petitioners have obtained US Visa when they were declared PO. It is submitted that there is an apprehension that they will misuse the permission and will not return and in these circumstances, they should not be permitted to leave the country.

8. I have considered the rival submissions and gone through the entire record.

9. As per bail order dated 26.04.2019, the petitioners had themselves given an undertaking that they will surrender their passports and it was not directed by the court as submitted by the petitioners. Ld. Counsel for the petitioners has now argued that passports should not have been retained by the Ld. Trial Court. In view of the case law titled “**Subash Vs. State**”(Supra), Ld. Counsel for the petitioners can certainly move the court concerned for release of passport which will be disposed of by the Ld. Court in accordance with law.

10. So far as permission to go abroad is concerned, perusal of record reveals that petitioners are involved in the offence of cheating and FIR under Section 420/120-B IPC has been registered against them on the complaint of one Sachin Jain. According to Ld. ASC, both the petitioners have fraudulently taken loan of Rs. 35 lacs and Rs. 55 Lacs from HDFC Bank and Punjab & Sind Bank respectively against the property bearing no. S-210, First Floor, GK-II, New Delhi by concealing the facts. Thereafter, they sold this floor to M/s BDR Builders Pvt. Ltd. and again stood witness in the sale deed executed by BDR Builders Pvt. Ltd. in favour of complainant and his wife Ms. Renu Jain. Complainant Sachin Jain had given this floor to the petitioners on lease vide lease deed dt. 29.07.2015 but they handed over the possession of the half back portion of the said property to HDFC Bank without the knowledge or consultation of the complainant. Further they again entered into an agreement to sell with a Builder of the locality Sh. Subash Arora and had taken advance from him. Apart from the above allegations of cheating and fraud committed by the petitioners as mentioned above, this fact also cannot be ignored that both the petitioners had evaded the

process of law and were declared absconders by the concerned court vide order dated 15.03.2018. Later on they were apprehended on 24.03.2019 u/s 41.1(C) CrPC. Moreover both the petitioners have no permanent address in Delhi or in India. They are stated to be residing at JG-1/125, Vikaspuri, New Delhi which is a rented accommodation but the same is found locked whenever the police has visited the said house. In view of above discussion, nature of allegations levelled against the petitioners, their conduct of evading process of law and their arrest after about one year of their being declared proclaimed offenders and obtaining of US Visa by them during the period when they were declared proclaimed offenders and further in view of the fact that son and daughter-in-law of the petitioners are also not joining the investigation and NBWs have been issued against them, no grounds for grant of permission, as prayed, are made out. The petition is, therefore, dismissed.

BRIJESH SETHI, J

NOVEMBER 14, 2019

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