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

+ **W.P.(CRL) 2255/2019**

RANJIT SHARMA

..... Petitioner

Through : Mr. Vikas Singh, Senior Advocate
with Mr. Varun Singh, Ms. Deepika
Kalia and Mr. Kapish Seth,
Mr. Mrityunjai Singh, Ms. Priyanka
Khosla and Ms. Alankriti Dwivedi,
Advocates for Non-
applicant/petitioner in CRL. M.A. No.
10787/2022.

versus

STATE & ORS.

..... Respondents

Through : Mr. Mohit Mathur, Senior Advocate
along with Mr. B. Shravanth Shanker,
Advocate for Respondent No. 3,
Applicant in Crl. M.A. No.
10787/2022.

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Date of Decision: 22nd July, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (Oral):

CRL. M.A. 10787/2022

1. The present application has been filed by Respondent No. 3 i.e. Smt. Uma Devi (the Applicant) seeking directions for release of her passport

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deposited with the registry in compliance with this Court's order dated 20th September 2019 and for cancellation of the Look Out Circular ('LOC') issued by the investigation agency.

2. The present writ petition was disposed of vide final order dated 20th September, 2019, wherein, this Court had directed the Crime Branch to investigate the allegations of confinement made by Smt. Satula Devi, the mother of the Petitioner i.e. Ranjit Sharma (the Non-applicant). At the hearing dated 20th September 2019, as recorded in the order, the Applicant had offered to voluntarily deposit her passport with the registry of this Court. She further agreed to give a 'No Objection' to the DCP for issuing a LOC to prevent her from travelling. In compliance with the order dated 20th September, 2019 and her undertaking, the Applicant deposited her passport with the registry. It is a matter of record that Respondent No. 3 holds a Diplomatic passport.

3. On 21st September, 2019, the Crime Branch registered an FIR bearing No. 279 of 2019 under Sections 323/344 of the Indian Penal Code ('IPC') read with Section 34 of IPC. Thereafter, pursuant to investigation the Investigating Officer (I.O.) added Sections 406/509 of IPC read with Section 12 of the Passport Act, 1967 (Act of 1967) to the FIR, which led to the arrest of the Applicant on 9th October, 2019. The Applicant has placed on record the order dated 23rd October, 2019, whereby regular bail has been granted to Respondent No. 3 by the Sessions Court, Patiala House Courts whilst imposing the following conditions:

i. That the applicant shall continue to participate in the investigation as and when required or so intimated by the IO;



ii. That the applicant shall make no attempt, directly or indirectly to contact the complainant, his relatives, friends and witnesses of the present case;

iii. That she shall furnish her mobile phone number to the Police/IO/SHO, which shall be kept operational at all times, so that the Police could contract her;

iv. That in case she changes her mobile number or residential address or work place, she shall inform the IO/SHO forthwith.

v. That the applicant/accused shall not leave the country without the prior permission of the trial court.

4. The IO thereafter filed a charge-sheet on 31st October, 2019. We have been informed that charge has not been framed in the said proceedings.

5. In the aforesaid circumstances, the Applicant i.e. Respondent No. 3 has filed the present application seeking the release of her Diplomatic passport deposited with the registry of this court and seeking the cancellation of LOC issued by the Investigating Agency against the Respondent No. 3.

6. At the outset, Mr. Mohit Mathur, learned Senior counsel for the Applicant submits that with respect to his prayer (b) for cancellation of LOC, he seeks liberty to approach the trial court for seeking cancellation of the LOC.

7. With respect to the prayer (a) for return of the Diplomatic passport, learned Senior counsel for the Applicant has made the following submissions:

(i) The Diplomatic passport deposited voluntarily with this



court was issued to the Applicant during the lifetime of Dr. Mahender Prasad, Member of Parliament, who has since passed-away on 27th December, 2021 and therefore, the Applicant is obliged to surrender the Diplomatic passport to the Secretariat of the Rajya Sabha to enable her to apply for a regular passport;

(ii) In light of the expressed condition of bail imposed by the learned trial court on 23rd October, 2019 restraining the Applicant from leaving the country without prior permission of the trial court, the applicant is bound by the said condition and therefore, there is no requirement for the passport to remain deposited with the registry of this court. The investigation in the case is complete and the charge-sheet has been filed on 31st October, 2019;

(iii) The Applicant is bound by the terms and conditions of the bail and therefore, there can be no justification for imposing a further restraint on the applicant by denying her the passport;

(iv) The Applicant has a fundamental right to apply for issuance of a regular passport and she will apply for same to the competent authorities; however, she is obliged to surrender the Diplomatic passport before she can apply for regular passport;

(v) The IO has not sought the custody of the passport from this Court and therefore, the plea of the Non-applicant that the passport should be handed-over to the IO is untenable;

(vi) He submits that the complainant Smt. Satula Devi has



since deceased and the Non-applicant has no locus to oppose this application as he has no concern with the criminal proceedings.

8. In response, Mr. Vikas Singh, learned Senior counsel appearing on behalf of the Non-applicant i.e. Sh. Ranjeet Sharma has opposed the release of passport on the following averments :

(i) The FIR in the matter has been registered under Section 12 of the Act of 1967 as the Applicant had obtained the Diplomatic passport by making allegedly false statements to the competent authorities;

(ii) The passport deposited with this court should be sent to the trial court and not released to the applicant herein;

(iii) The applicant is not eligible to apply for a regular passport in light of the pending criminal proceedings in FIR 279 of 2019 and in this regards he relies upon Section 6(2)(f) and (g) of the Act of 1967;

(iv) He submits that the investigation has not concluded. It is still pending and a supplementary charge-sheet is to be filed in this matter. In this regard, he relies upon a statement to this effect in the charge sheet.

9. Learned Senior counsel for the Applicant in his rejoinder has stated that eligibility of the Applicant to apply for a regular passport, its issuance or non-issuance is in the exclusive domain of the competent authorities under the Act of 1967. He has submitted that the present writ petition stands disposed of and there is no reasonable cause for the passport to remain deposited with the registry considering that a charge sheet stands filed



before the trial court, which court is the most appropriate court for deciding these issues. He states that there is no further investigation pending with the IO in respect to the allegations pertaining to the issuance of Diplomatic passport and charge sheet with respect to the said alleged offence is complete.

10. We have considered the submissions of the counsel for the parties.

11. In pursuance to the application made by the IO on 27th September, 2019, IO received a letter from the Office of FRRO, New Delhi on 04th October 2019 for opening of the LOC request to restrain Smt. Uma Devi from travelling abroad. The LOC has been issued against the Applicant Smt. Uma Devi at the request of the IO.

12. In accordance with the law laid down by this court in ***Sumer Singh Salkan vs. Assistant Director & Ors. reported in ILR (2010) VI Delhi 706***, an accused is entitled to approach the trial court, where the proceedings are pending for cancellation of the LOC and the trial court can rescind the same. The Applicant as noted above during arguments has sought liberty to approach the trial court which is the procedure in accordance with the judgment of *Sumer Singh Salkan (supra)*. We accordingly grant liberty to the Applicant to approach the trial court, which court shall consider the application of cancellation of LOC on its own merits and in accordance with law.

13. With respect to release of Diplomatic passport deposited with the registry of this court, there is no dispute that the said passport was issued to the Applicant and it was only co-terminus with the term of Dr. Mahender Prasad as a Rajya Sabha Member. Upon his death, the Applicant is obliged to deposit the Diplomatic passport with the Secretariat of Rajya Sabha for its



cancellation. As regards, the concern of the learned Senior Counsel for the non-applicant that the passport is a vital piece of evidence which may be required during the trial pending in the charge-sheet filed in FIR No. 279/2019, it may be noted that the IO has in the past three (3) years not approached this court for release of the passport.

14. In fact, a perusal of the charge-sheet reveals that on 27th September, 2019, the IO had issued a notice under Section 91 of the Cr.P.C. upon the Regional Passport Officer, R.K. Puram, Delhi to provide all documents pertaining to Applicant i.e. Smt. Uma Devi. The charge-sheet records that the IO received the documents sought on 27th September, 2019 and it was on the basis of the documents that he added the charge of Section 420 IPC in the charge-sheet. Upon a perusal of the charge-sheet, it appears that investigation with respect to the allegations pertaining to issuance of the passport is complete. The learned Senior Counsel for the Applicant has stated that the issue of supplementary charge-sheet is limited to the documents awaited from the bank and has no concern with the alleged offence of passport. This submission is not rebutted by the non-applicant.

15. In view of the fact that the charge-sheet has been filed with the trial court and regular bail has been granted to the applicant herein in 2019, there is no cause for this Court to continue to hold the passport in these proceedings.

16. The submission of the learned Senior Counsel for the non-applicant that the applicant is ineligible to apply for a passport in view of the bar contained in Section 6(2)(f) and (g) of the Act of 1967 cannot be considered by this Court as it is not the issue pending before us. The said issue, if and when arises, shall be considered by the Competent Authority in accordance



with law.

17. There is no doubt that the applicant had deposited her Diplomatic passport and agreed to the issuance of LOC on a voluntary basis in order to enable investigation and there is no cause to deny the applicant's prayer (a) made in the present application. Accordingly, the prayer (a) is allowed. The registry of this Court is directed to retain a certified coloured copy of the passport for the record and is further directed to hand-over the original Diplomatic Passport to Smt. Uma Devi.

18. As regards prayer (b) made in the application, as recorded above liberty is granted to the Applicant to approach the concerned trial court for cancellation of the LOC and the said application will be considered on its own merits in accordance with law.

19. With the above directions, the application is disposed of.

MANMEET PRITAM SINGH ARORA, J

MANMOHAN, J

JULY 22, 2022

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