

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.630 of 2020

A.Subukhan

... Petitioner

Vs.

1. The State Rep. by its
Senior Intelligence Officer,
No.25, Gopalakrishna (Iyer) Road,
T.Nagar, Chennai - 600 017.

2. The Regional Passport Officer,
Royal Towers,
No.2 and 3 IV Floor,
Old NBo, 785, New No.158,
Anna Salai, Chennai - 600 002.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to direct the second respondent to permit the petitioner having Passport No.K.2805034 to travel abroad for HAJ PILGIRIMAGE from January, 2020 on condition return to INDIA on or before 30.06.2020.

For Petitioner : Mr. R.Venkata Varathan
For Respondents : Mr.N.P.Kumar (For R1)
Special Public Prosecutor
(Customs)

: Mr.B.L.Jayakandan, CGSC
(For R2)

सत्यमेव जयते
O R D E R

This petition has been filed to direct the second respondent to permit the petitioner having Passport No.K.2805034 to travel abroad for HAJ PILGIRIMAGE from January, 2020 on condition return to INDIA on or before 30.06.2020.

2. Heard Mr.R.Venkata Varathan, learned counsel appearing for the petitioner, Mr.N.P.Kumar, learned Special Public Prosecutor (Customs) appearing for the first respondent and Mr.B.L. Jayakandan, Central Government Standing Counsel appearing for the second respondent.

3. The learned counsel for the petitioner has submitted that the petitioner is facing trial for the alleged offences punishable under Sections 135(1)(b), 135(1)(c) and 2(39) of Customs Act. He further submitted that the Authority namely the Commissioner of Customs (Preventive) Chennai, passed an order having Ref.F.B.No.05, No.5/2018-PAU, F.No.VIII/48/38/2010-DRI, dated 01.04.2019 and held that ordered for confiscation of the goods and imposed a penalty of Rs.75,00,000/- (Rupees Seventy Five Lakhs only) to the petitioner and the same was forwarded to the Additional Chief Metropolitan Magistrate (Economic Offences-I) for further proceedings in R.R.35 of 2010. He further submitted that investigations are completed by the Authority and order also passed by the Competent Authority and the same is pending before the II Additional Chief Metropolitan Magistrate, (Economic Offences - I) therefore, the question of tampering the witnesses and destroy the materials will not arise in this case. He further submitted that the petitioner proposed to have HAJ PILGRIMAGE with his family for this year i.e., 2020 and he made all arrangements to his family members through Al-Noor Haj Service (India) Pvt., Ltd., since he is facing the criminal trial in R.R.No.35 of 2010, the Passport Authority did not permit the petitioner to go abroad without the permission of the Court.

4. He further submitted that the petitioner has filed a petition before the learned Additional Chief Metropolitan Magistrate (Economic Offences-I) seeking permission of the said Court to travel abroad for HAJ PILGRIMAGE but the learned Additional Chief Metropolitan Magistrate (Economic Offences-I) returned the said petition orally informing the petitioner's counsel to approach this Court.

5. Mr.N.P.Kumar, learned Special Public Prosecutor appearing for the first respondent has submitted that already an order was passed directing the petitioner for confiscation of the goods and imposed a penalty of Rs.75,00,000/- but so far, the said amount was not paid. Under the said circumstances, if petitioner is allowed to go abroad, the first respondent cannot collect the said amount.

6. The learned counsel for the second respondent has submitted that as per the notification issued by the Ministry of Finance, Department of Revenue, dated 25.08.1993, G.S.R.570 (E), the petitioner has to approach the trial Court, instead of that, he cannot approach this Court and hence he prayed to dismiss this petition.

7. Considering the aforesaid submissions, the petitioner is directed to present an application before the trial Court seeking permission to go abroad, within a week from the date of receipt of a copy of this order. On such presentation of the petition, the trial Court is directed to dispose of the same, in accordance with law, within a period of two weeks thereafter.

8. With the aforesaid directions, this petition is disposed of.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Senior Intelligence Officer,
No.25, Gopalakrishna (Iyer) Road,
T.Nagar, Chennai - 600 017.
2. The Regional Passport Officer,
Royal Towers,
No.2 and 3 IV Floor,
Old NBo, 785, New No.158,
Anna Salai, Chennai - 600 002.
3. The Public Prosecutor,
High Court, Madras.
4. The Additional Chief Metropolitan Magistrate,
Economic Offence -I, Chennai.

+1cc to Mr.R.Venkata Varathan, Advocate Sr.No.15340

AKM/24.02.2020 /3p-6c/

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