



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

CORAM

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.R.C. (MD).No.881 of 2019

WEB COPY

Murugesh .. Petitioner / Petitioner / Accused No.7
Vs.

State rep by
The Inspector of Police,
SPE.CBI: ACB, Madurai.
(R.C.No.229 2018 A 0001)

.. Respondent / Respondent /
Complainant

PRAYER: This Criminal Revision has been filed under Section 397 and 401 of Cr.P.C, to call for the records pertaining to the order passed in Cr.M.P.No.125 of 2019 in R.C.No.229 2018 A 0001, dated 04.02.2019 on the file of the learned II Additional District Court for CBI Cases, Madurai and set aside the same.

For Petitioner : Mr.T.Veerakumar
For Respondent : Mr.N.Nagendran,
Special Public Prosecutor.

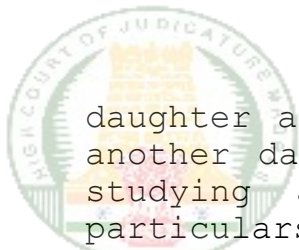
O R D E R

The Criminal Revision Petition has been filed seeking to set aside the order dated 04.02.2019 in Cr.M.P.No.125 of 2019 in R.C.No.229 2018 A 0001 on the file of the learned II Additional District Court for CBI Cases, Madurai.

2.The petitioner/A7 filed a petition in Cr.M.P.No.125 of 2019 in R.C.No.229 2018 A 0001 under Section 451 of Cr.P.C seeking the order of interim custody of old passport No. N7545081, New Passport No.N7627949 and Overseas citizenship of India Card Registration Certificate No.A 2430709 to the petitioner.

3.The trial Court by order dated 04.02.2019 in Cr.M.P.No.125 of 2019 had negatived the prayer of the petitioner. As against the same, the present revision has been filed.

4.The contention of the learned counsel for the petitioner is that the petitioner's daughter, namely, Krishnakala is married and settled at Denmark and his son, namely, Gajendran is settled at Boland. It is just necessary for the petitioner to have the passport and Overseas Citizenship Card to make his travel to meet his



daughter and son. Further, the petitioner settled in India and his another daughter, namely, Keerthika is a student of Physiotherapy, studying at SRM College, Chennai. He has also produced the particulars of Adhar Card and PAN card (Adhar No. 3365 6998 0834). Further, he has also produced the copy of the property receipt, which stands in the name of his wife, namely, M.Ramani, at Asai Nagar, Pulivalam Panchayat, Thirumayam Taluk, Pudukottai District. He also submitted that the petitioner have a right to travel which is a fundamental right. He has also relied upon the judgment in the case of Menaka Gandhi Vs. Union of India reported in [1978] 2 SCR 621.

5. The learned Special Public Prosecutor submitted that during the investigation, the accused persons including the petitioner/A7 are involved in the anti-national activities. On 05.08.2018, the customs officials allowed the passengers/smugglers to exit the customs area, carrying the luggage brought by them from abroad, without conducting any assessment of the articles, thereby causing huge revenue loss to the Government of India. Pursuance to the conspiracy, the payment of illegal gratification as demanded by customs officers.

6.The petitioner is one of the passenger, who had been part of the conspiracy and who had evaded the payment of customs duty. He also submitted that the petitioner/A7 is frequent traveller and smuggler/carrier on instruction of customs official, he had collected the huge sums of money from the other passengers and had handed over to the customs official, which were seized and recovered. This petitioner/A7 had made 50 trips from January 18 to August 18 and it proved the fact that the petitioner is the carrier. Further, in this case investigation has been completed and charge sheet has also been filed on 19.09.2019 in C.C.No.7 of 2019. He further submitted that if the petitioner's passport is returned, he would abscond and evade the jurisdiction. Therefore, he opposed to return of passport.

7.It is seen that there are totally 19 accused of which A1 to A6 are customs officers and A7 to A19 are private individuals/travellers. It is also seen that the seizure of articles have been made from 12 persons and as far as this petitioner is concerned, no articles have been seized except it is mentioned that the packages were confiscated by the customs officers. It is also seen that this Court in CRL.RC(MD)Nos.492 and 494 of 2019, by order dated 28.08.2019 permitted the accused Nos.12 and 13 to receive the passport and to travel for a specific period.

8.Considering the above, this Court is inclined to permit the petitioner to travel abroad to meet his daughter and son for a period of one month (30 days) from the date of his departure. The



petitioner is directed to file an affidavit along with a copy of this order before the trial Court and on receipt of the same, the trial Court is directed to handover old passport No. N7545081, New Passport No.N7627949 and Overseas citizenship of India Card Registration Certificate No.A 2430709 to the petitioner. to the petitioner. On receipt of passport, the petitioner to purchase Air Ticket, apply for travel documents, furnish photostate copy of the same along with the affidavit. The petitioner to file an affidavit before the trial Court and a copy of the same to be furnished to the respondent informing the date of his departure, date of arrival, place of stay and contact number, further his likely date of return. The petitioner will be available for trial on the date specified by the trial Court. Further, in breach of any of the condition, the bail granted to the petitioner to be revoked. The respondent to inform the immigration authorities about this order for unhindered passage of petitioner. The petitioner, on return to re-submit the passports and Overseas Citizenship Card to the custody of the trial Court.

9. In view of the above, this Criminal Revision Petition is disposed of.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The II Additional District Court for CBI Cases,
Madurai.

2.The Inspector of Police,
SPE.CBI: ACB, Madurai.
(R.C.No.229 2018 A 0001)

3. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court, Madurai.

4.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.VEERA KUMAR, Advocate (SR-2111[F] dated 21/01/2020)

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