



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.24658 of 2021

G.Balaji

... Petitioner

Versus

State rep. by,

1. The Deputy Commissioner of Police,
CCB, ALGSC-II,
Chennai Commissioner Office,
Vepery, Chennai.

2. The Assistant Commissioner of Police,
CCB, ALGSC-II,
Chennai Commissioner Office,
Vepery, Chennai.

3. The Inspector of Police,
CCB, ALGSC-II, Team-25,
Chennai Commissioner Office,
Vepery, Chennai.
(Crime No.88 of 2021)

4. The Regional Passport Officer,
Regional Passport Office,
Anna Salai, Chennai-600 002.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to cancel the LOC issued against the petitioner based on the Crime No.88 of 2021 pending before the 3rd respondent.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the respondents to cancel the LOC issued against the petitioner in connection with Crime No.88 of 2021 on the file of the 3rd



respondent.

2. Since the petitioner/A3 is involved in Crime No.88 of 2021, for offence under Sections 384, 406, 420 and 506(i) of IPC, a Look Out Circular in Suspect No. from 2149217 to 2149217 has been opened by the Bureau of Immigration (Ministry of Home Affairs), Government of India on 18.11.2021 on the request of the 1st respondent in C.No.37/DC/CCB-III/camp/2021, dated 17.11.2021.

3. The learned counsel appearing on behalf of the petitioner submitted that on 01.11.2021, at about 05.30 p.m., when the petitioner along with two others returned to India, they were arrested by the 3rd respondent in connection with the above case and, produced for remand before the learned Judicial Magistrate No.I, Alandur. The learned Magistrate, by order, dated 01.11.2021 rejected the request for remand and granted bail to the petitioner and imposed certain conditions. The conditions No.4 is that '(iv) They shall not travel to any of the foreign country without the permission of the Court of law'. Based on which, the 1st respondent sent a communication to the Assistant Director/SIC, R.K.Puram, Sector-I, BOI Headquarters, East Block VIII, Sec-1, RK Puram, New Delhi-110 066 on 17.11.2021. On receipt of the same, on 18.11.2021, the Bureau of Immigration (Ministry of Home Affairs), Government of India issued Look Out Circular against the petitioner in Suspect No. from 2149217 to 2149217. The learned counsel further submitted that a civil dispute (commercial transaction) has been given a criminal colour. While rejecting the remand of the petitioner, the learned Judicial Magistrate No.I, Alandur found the issue between the parties is on the two memorandum of understanding, dated 30.04.2019 and 12.07.2019. Following the judgment of the Hon'ble Apex Court in the case of "Arnesh Kumar Versus State of Bihar and another reported in (2014) 8 SCC 273" and this Court in the case of "Nakkiran Gopal" that the remand should not be the mechanical process, the learned Magistrate rejected the remand and granted bail to the petitioner with certain conditions. The petitioner aggrieved on the only condition that the petitioner shall not travel to any of the foreign country without the permission of the Court of Law.

4. The learned counsel further submitted that earlier, when the notice under Section 41(A) Cr.P.C., was served to the petitioner, the petitioner appeared before the 3rd respondent Police for enquiry and cooperated with investigation. When the second notice was served to the petitioner, he was not available and his mobile number was switched off. During that time, the petitioner had gone to abroad to attend his business work, that is the reason, he was unable to appear for enquiry and inform



the 3rd respondent.

5.The learned counsel further submitted that the Hon'ble Apex Court in catena of judgments following the case of "Menaka Gandhi Versus Union of India reported in AIR 1978 SC 597" consistently held that it is a constitutional right of a person to travel abroad and no one should be deprived of his life and liberty except the procedure established in law. This Court following same in the case of "E.V.Perumalsamy Reddy and others Versus State represented by the Deputy Commissioner of Police reported in 2014 (1) MLJ 125" and in the case of "S.Martin Versus the Deputy Commissioner of Police, Central Crime Branch reported in 2014 (1) MLJ 647" held that once a person is granted bail, no question of sustaining Look Out Circular would arise, unless the person is involved in any heinous crimes and in terrorist activities. In this case, the petitioner is involved in a commercial dispute case over the two memorandum of understanding. This being the case, the 1st respondent ought not to have sent a requisition to the Immigration Authorities for issuing the Look Out Circular against the petitioner. The Bureau of Immigration, in a routine manner, on the request of the investigation agency in the rank of Superintendent of Police, Deputy Commissioner of Police, issuing the Look Out Circular without considering the facts and circumstances of the case. The petitioner is aggrieved with the condition No.4 of the learned Judicial Magistrate No.I, Alandur and hence, he filed this petition to modify the condition as well as to cancel the Look Out Circular issued against him without any reason. As submitted earlier, after arrest of a person, there is no question of continuation of the Look Out Circular. The Hon'ble Apex Court and this Court consistently held that merely because a person is involved in a criminal case, he is not denude of his fundamental rights. It is the fundamental of a person to move anywhere he likes including foreign countries.

6.The learned counsel further submitted that the petitioner is doing Import-Export business in the name of M/s.VOX Impex Private Limited. The company was incorporated during the year 1996, registered with Ministry of Commerce and got IEC card. The petitioner is a Member of Agricultural and Processed Food Products Export Development Authority (Ministry of Commerce, Government of India). He is actively doing business in the middle east countries, regularly undertaking foreign travel. The petitioner is having Entry Permit to UAE. The petitioner produced the Air Ticket for his departure from Chennai to Kochi on 29.12.2021 and from Kochi to Dubai on the same day. Each time the petitioner getting permission from the learned Judicial Magistrate No.I, Alandur would be arduous task at times he needs to undertake sudden and immediate travel. The petitioner is a permanent resident in India, and is having deep social roots.



The petitioner shall inform his travel details, place of stay and contact details to the 3rd respondent Police and shall appear for enquiry without any delay.

7.The learned counsel submitted that the petitioner is a social conscious person voluntarily helping the needy and he comes forward to donate a sum of Rs.2,00,000/- (Rupees two lakhs only) to the Madras Advocate Cooperative Societies Limited for the welfare of its members. Hence, he prayed for withdrawal of the Look Out Circular issued against him by the Immigration Authorities.

8.The learned Additional Public Prosecutor appearing for the respondents submitted that the petitioner along with two others arrested in Crime No.88 of 2021 on 01.11.2021 and produced for remand by the 3rd respondent before the learned Judicial Magistrate No.I, Alandur. The learned Magistrate refused to accept the remand and granted bail to the petitioner. One of the condition is that the petitioner not to travel abroad without permission of the Court. Earlier, the petitioner has partaken in the enquiry conducted by the 3rd respondent in Crime No.88 of 2021. Thereafter, without informing the 3rd respondent, the petitioner left India and he was unable to be contacted. Finding that the petitioner had absconded, a watch was kept over him. When the petitioner entered India, he was arrested and produced for remand before the learned Judicial Magistrate No.I, Alandur. The petitioner is a frequent traveller, travelling to various countries for business purpose. The petitioner has Entry Permit to UAE. If the travel restrictions of the petitioner is removed, he would flee away from the country and the investigation would get hampered. The condition of the learned Judicial Magistrate No.I, Alandur is that the petitioner to inform the Court before going to foreign countries. Without approaching the learned Magistrate, he has filed this present petition.

9.This Court considered the rival submissions and perused the materials available on record.

10.A Look Out Circular in Suspect No.from 2149217 to 2149217 has been opened by the Bureau of Immigration (Ministry of Home Affairs), Government of India on 18.11.2021 on the request of the 1st respondent in C.No.37/DC/CCB-III/CAMP/2021, dated 17.11.2021, since the petitioner is involved in Crime No.88 of 2021, on the file of the 3rd respondent. The remand of the petitioner was not accepted by the learned Judicial Magistrate No.I, Alandur considering the nature of offence and bail was granted. One of the condition imposed by the learned Magistrate is that the petitioner to get permission from the Court to travel foreign countries. Taking cue from the same, the 1st



respondent had written to Bureau of Immigration to open a Look Out Circular and impose travel restrictions on the petitioner, which is uncalled for.

11. In view of the same, continuation of the Look Out Circular issued against the petitioner in Suspect No. from 2149217 to 2149217 by the Bureau of Immigration (Ministry of Home Affairs), Government of India on 18.11.2021 is hereby quashed.

12. The petitioner (Passport No. Z4551651) is free to travel without any restriction. The petitioner to inform the 3rd respondent about his travel details such as date of departure and arrival, place of stay and his contact details like mobile number and email address and the same to be furnished by way of memo to the learned Judicial Magistrate No. I, Alandur.

13. With the above directions, this Criminal Original Petition is allowed. The petitioner to denote a sum of Rs. 2,00,000/- (Rupees two lakhs only) to the credit of the Madras Advocate Cooperative Society Limited, Madras in Account No. 484022647, Indian Bank, Madras High Court Branch, Madras.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Commissioner of Police,
CCB, ALGSC-II,
Chennai Commissioner Office,
Vepery, Chennai.
2. The Assistant Commissioner of Police,
CCB, ALGSC-II,
Chennai Commissioner Office,
Vepery, Chennai.
3. The Inspector of Police,
CCB, ALGSC-II, Team-25,
Chennai Commissioner Office,
Vepery, Chennai.



4. The Regional Passport Officer,
Regional Passport Office,
Anna Salai, Chennai-600 002.

5. The Public Prosecutor,
High Court, Madras.

Copy To:

6. The Judicial Magistrate Court No.I,
Alandur.

7. The secretary,
Madras Advocate Co-Operative Society Ltd,
Madras.

+1cc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.69876 (28/12/021)

CRL.O.P.No.24658 of 2021

VSN-II (CO)
CT/27/12/2021