



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.07.2021
PRONOUNCED ON : 31.08.2021

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGOVAN**

Crl.O.P. (MD)No.14797 of 2020

Mohammed Ifran ... Petitioner

Vs.

1.The Superintendent of Police,
CBCID,
Chennai.

2.The Inspector of Police,
CB CID,
Theni.

(Crime No.1 of 2019)

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents to issue No Objection Certificate in favour of the petitioner for his travel to Mauritius within the time stipulated by this Court.

For Petitioner	: Mr.P.Wilson Senior Advocate for Mr.C.Jeganathan
For Respondents	: Mr.R.M.Anbunithi, Additional Public Prosecutor

ORDER

This petition is filed seeking direction to the respondents to issue No Objection Certificate in favour of the petitioner for travel to Mauritius.

2.The facts in brief:-

The petitioner is the accused in Crime No.1 of 2019 which was registered for the offences punishable under Sections 120B, 419 & 420 IPC. The case of the police against the petitioner is that he got MBBS admission by impersonation in the NEET examination. This petitioner is arrayed as accused, based on the confession statement given by the first accused namely Udit Suriya. The above said accused studied in Theni Government Medical College Hospital, Theni. Because of the false implication, he is facing hardship. In 2016-2017, the petitioner was admitted in Kancheepuram PRIMS Private Medical College under the Management quota. During the said period, the Government announced that those students who got admission during the said period must clear NEET Examination. But the



petitioner could not clear the same. Totally 35 persons including the petitioner were not permitted to continue their education. So, he filed Writ Petition before this Court and there was no progress. In the meantime, the petitioner got admission at Mauritius i.e Anna Private Medical College in 2018. Other persons who were similarly affected were pursuing their litigation before this Court. On 10.07.2019, he attended counselling for MBBS admission and got admission in Government Medical College at Dharmapuri. He joined on 05.08.2019. After completion of one month, the petitioner was informed that he was admitted in the above said college not because of the High Court order. So, he discontinued his studies and continued to study at Mauritius College. Only during this period, the case has been registered. He was arrested and subsequently released on bail in CrI.O.P(MD) No.15802 of 2019 by order dated 01.11.2019. During the course of investigation, the second respondent seized his Passport, after release from the prison on bail. He has complying with the conditions. Now he wants to go back to continue studies in Medical College at Mauritius. He filed a petition in Cr.M.P.No.1890 of 2020 before the Judicial Magistrate Court, Theni for return of passport and the same was allowed on 21.09.2020. After getting passport, he obtained travel ticket on 27.11.2020 to go to Mauritius to continue his studies. But, he was intercepted at Mumbai Airport stating that criminal case is pending against him. On that basis, he was not permitted to travel to Mauritius. According to the petitioner, he was released on bail and having offered fullest co-operation for completing the investigation. The authorities cannot deny permission to go abroad, as per the provisions of Mauritius Medical College. If the petitioner fails to attend more than a year, he has to undergo classes for another one year. So the petitioner seeks permission to travel Mauritius to pursue his studies, failing which, his future will be affected. Hence, this petition.

3.The counter affidavit has been filed by the respondent.

4.The case of the petitioner is that he has not involved in any crime is not correct. During the relevant period, the petitioner studied in Mauritius. His father, by name Mohammed Shafi arranged the first accused to impersonate the petitioner to clear NEET examination and he also appeared on behalf of the petitioner and got 473 marks, only based upon that, he got admission in Government Medical College, Dharmapuri. When the first accused was arrested, this petitioner went absconding. Later he was also arrested. The petitioner's father only engaged Rasheed to commit impersonation on behalf of the petitioner. From the report of National Testing Agency, it is seen that 3 impersonators have written NEET examination in 2019 in three other States viz., Rajasthan, Uttar Pradesh and Jharkhand on behalf of this petitioner. A person who wrote NEET UG 2019 -2020 in Rajasthan scored 473 marks. Only on that basis, the petitioner got admission in Government Medical College, Dharmapuri. Hence, the petitioner seeks permission to travel to Mauritius to continue his studies, failing which, his future will be affected. Hence, this petition.



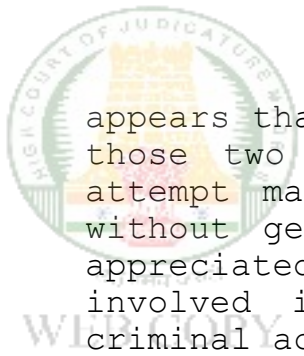
petitioner have to be identified. Similarly the middlemen, Krishna Singh and Deepak have to be arrested. At this juncture, without informing the investigating agency, this petitioner tried to go to Mauritius. He was stopped in Chennai Airport on the basis of the look out notice. The petitioner tried to ply India on 11.02.2020 and 27.11.2020. Both times, he was stopped by the Airport Authorities, due to the above look out notice. So the respondent can not issue No objection Certificate to the petitioner to travel to Mauritius. If he is allowed to travel, he will hamper the evidence and his presence could not be secured, for the remaining period of the investigation or even for trial process.

5. Heard both sides.

6.The case involves famous scam of NEET 2019 and it is seen from the information furnished by the respondent that impersonation events had happened. It is seen that the petitioner's father arranged impersonators through middlemen for clearing NEET Examination 2019 on behalf of his son. As per the information furnished by the respondent, it is seen that totally three persons have appeared for NEET Examination in various States vis., Rajasthan, Uttar Pradesh and Jharkhan by impersonating the petitioner. On that basis, the petitioner too got admission in Government Medical College, Dharmapuri. Later when he attempted to move to Mauritius, he was intercepted by the Airport Authorities.

7.Even though the petitioner denied the allegations, the fact remains that the petitioner is involved in the above said crime and got admission in Government Medical College, Dharmapuri. So *prima facie* materials are available against the petitioner to implicate him in this case. But the point to be answered is that whether pendency of the criminal case dis-entitles a citizen to travel abroad and pursue his education carrier. Here, in the present case, no doubt criminal investigation is pending against this petitioner. But according to the learned counsel for the petitioner, simply because investigation is pending, right of the person to travel abroad and pursue his studies should not be curtailed and if it is done, it will amount to curtail/spoil his future. If at all the respondent can only ensures the petitioner's presence during the process of investigation and trial, except that the respondent cannot cite the pendency of the criminal case to stall the petitioner's prospects.

8.So no doubt simply because investigation is pending, the future of a young boy should not be spoiled. But at the same time, the petitioner has to comply proper procedure and conditions before visiting overseas. No doubt, the respondent has to give No Objection Certificate for the purpose of obtaining passport. Even though passport has been returned to the petitioner, it appears that he has not obtained any certificate from the Investigating Officer stating



appears that two times, the petitioner attempted to go abroad and in those two times, he was stopped by the Airport Authorities. So attempt made by the petitioner in those situations to go abroad without getting proper permission from the authorities cannot be appreciated and it is improper and illegal also. Already, when he is involved in criminal case, he should not indulge in repeated criminal activities.

9.Now, the short point for consideration is whether direction can be issued to the respondent to issue No Objection Certificate to the petitioner. The learned counsel for the petitioner would straightaway rely upon the **Judgment of Honourable Supreme Court of India in Criminal Appeal No.648 of 2020, dated 01.10.2020 and as well as the Judgment of this Court in W.P.No.21305 of 2017 Karti P.Chidambaram vs. Bureau of Immigration, Ministry of Home Affairs and others reported in 2018 SCC online Mad 2229 and Shriram Sankaran vs. State the Inspector of Police, All Women Police Station, Mylapore, 2018 SCC Online Mad 205.**

10. No doubt in all those matters permission has been granted to the petitioners concerned to visit abroad. Pendency of criminal case cannot be a ground for denying the right. Further, it is to be noted that the petitioner has not challenged the look out notice. But he has sought relief of giving direction to the respondent to issue No Objection Certificate, which in turn amount to the cancellation of the look out notice. The learned counsel for the petitioner would submit that he has complied all the conditions imposed by this Court while granting anticipatory bail. He was arrested and subjected to custody. He is also ready to abide by all the conditions that may be imposed by this Court.

11. By office Memorandum dated 27.10.2010, guidelines have been laid down for issuing look out circulars. Similarly in Official Memorandum that has been issued by the Ministry of External Affairs, PSP Division, dated 10.10.2019, regarding the issue of passport to the applicants who have criminal proceedings pending against them. As per the circular, the persons who are facing charges of criminal case must produce No Objection Certificate from the concerned Court. In the above said circular, prescribed format of undertaking is also prescribed in Annexure A, wherein, we find that Case No, Name of the Court, Details of the Investigating Agency, Last date of hearing, Next date of hearing must be mentioned. More over, whether the passport has been renewed or not is not clear on record. So, I am of the considered view that when criminal case is pending against the petitioner, he must obtain proper permission from the concerned Court, before which, First Information Report is pending. The passport has been returned to the petitioner by the Judicial Magistrate, Theni before whom the property has been remanded. More over, he has been bailed to the jurisdictional Court when he was released on bail. In the light of the said circular, I am of the



considered view that the petitioner must be directed to appear before the Judicial Magistrate Court, Theni for getting No Objection Certificate. The learned counsel for the petitioner would submit that since charge sheet has not been filed, he cannot approach the concerned Court. But for the reasons stated above, it is not acceptable.

12.In the light of the above discussions, the following directions are issued. The petitioner shall approach the Judicial Magistrate Court, Theni with proper petition. The same may be considered by the Court by giving notice to the respondent herein and decide the same on merits and in accordance with law. If the court deems it fit to grant No Objection Certificate, then, it must be strictly in conformity with the circular issued by the Ministry of External Affairs, PSP Division, dated 10.10.2019. The learned Magistrate is also free to impose any condition as he deems fit to ensure the presence of the petitioner, during investigation and trial process.

13.With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate,
Theni.

2.The Superintendent of Police,
CBCID,
Chennai.



3.The Inspector of Police,
CB CID,
Theni.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.14797 of 2020

31.08.2021

MGJ(09.09.2021) 6P 5C