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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 5th May, 2021
+ **CRL.M.C. 1310/2021 & CRL.M.A. 6734/2021**
MILEN IVANOV DAVRANSKI Petitioner
Through: Ms. Tanya Aggarwal, Advocate.
versus
UNION OF INDIA Respondent
Through: Mr. Digvijay Rai and Mr. Aman
Yadav, Advocates for UOI.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by the Petitioner, who is a Bulgarian national, seeking discharge under Section 24 of The Extradition Act, 1962 (*hereinafter*, “Act”).
3. The background of the Petitioner and the extradition proceedings against him has been considered by this Court in its detailed judgment dated 7th April, 2021 passed in *W.P.(C) 1541/2021* titled *Milen Ivanov Davranski v. UOI*. The facts of the case are not being reproduced in detail. This order shall be read alongside the said judgment for the purposes of the factual background.
4. Insofar as it relates to the present case, the submission of Ms. Aggarwal, Id. Counsel for the Petitioner, is that under Section 24, if a person has been committed to prison to await his surrender or return to the foreign state, within two months of such committal, if he is not conveyed out of India, he/she can be discharged after notice has been issued to the Central Government, unless sufficient cause is shown to the contrary. Id. counsel

further submits that in all the three cases which are pending against the Petitioner in Goa, the Petitioner is already on bail and in two of the cases, he has been given permission to travel abroad.

5. It is submitted that Section 24 would be applicable in the present case, and since the Petitioner has been taken into custody in Delhi on 6th November, 2020, the two month period has already passed and he has not been conveyed out of India. Thus, Id. counsel submits that the Petitioner is entitled to be discharged. In the alternative, it is her submission that since the Petitioner has already been granted bail by the Courts in Goa, he ought to be released on bail by this Court under whose jurisdiction he was committed to judicial custody, pending extradition proceedings.

6. On the other hand, Mr. Ajay Digpaul, Id. CGSC, submits that the Petitioner has been given bail by the Courts in Goa subject to various conditions and he can only be released in Goa on bail so as to ensure that he abides by the conditions imposed on him by the said Court. He further submits that Section 24 would be subject to Section 31(1)(d).

7. This Court has considered the submissions on behalf of the Petitioner and vide judgment dated 7th April, 2021, after considering the legal position, held that in view of Section 31(1)(d), the Petitioner cannot be extradited, though he has been recommended for extradition by the concerned court, primarily due to the fact that three other criminal cases are pending against the Petitioner in the criminal Courts in Goa. The operative portion of the said judgment is set out below:

“xxx xxxx xxx

34. Accordingly, this court is of the opinion that in view of the above position, the request of the Petitioner- accused, for an expedited surrender and

extradition, cannot be allowed, until the Petitioner continues to be an accused in the three FIRs lodged against him in Goa, India, and the said cases are pending before the domestic fora.

35. It is also noted that the present petition only relates to the extradition request qua the Petitioner made by the Republic of Bulgaria to the Union of India, and the Union of India has already clarified in response to the note verbale, dated 22nd January 2021, received from the Republic of Bulgaria, by a reply note dated 4th February 2021, that the Petitioner cannot be extradited to Bulgaria in view of the three pending FIRs.

36. The Petition is accordingly dismissed. This would however not prejudice or bar the Petitioner from approaching the appropriate fora to avail of the benefit of the orders granting bail as also permission to travel abroad, in accordance with law.”

8. After judgment dated 7th April, 2021 was pronounced, the Petitioner has given notice dated 12th April, 2021 to the Ministry of External Affairs stating that he intends to make an application seeking discharge in view of the provisions of Section 24. Sections 24 and 31 read as under:

“24. Discharge of person apprehended if not surrendered or returned within two months.— *if a fugitive criminal who, in pursuance of this Act, has been committed to prison to await his surrender or return to any foreign State is not conveyed out of India within two months after such committal, the High Court, upon application made to it by or on behalf of the fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Central Government, may order such prisoner to be discharged unless sufficient cause is shown to the contrary.”*

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31. Restrictions on surrender.—[(1)] *A fugitive criminal shall not be surrendered or returned to a foreign State—*

(a) if the offence in respect of which his surrender is sought is of a political character or if he proves to the satisfaction of the magistrate or court before whom he may be produced or of the Central Government that the requisition or warrant for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character;

(b) if prosecution for the offence in respect of which his surrender is sought is according to the law of that State barred by time;

(c) unless provision is made by that law of the foreign State or in the extradition treaty with the foreign State that the fugitive criminal shall not be determined or tried in that State for an offence other than—

(i) the extradition offence in relation to which he is to be surrendered or returned;

(ii) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(iii) the offence in respect of which the Central Government has given its consent;]

(d) if he has been accused of some offence in India, not being the offence for which his surrender or return is sought, or is undergoing sentence under any conviction in India until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise;
(e) until after the expiration of fifteen days from the date of his being committed to prison by the magistrate.

[(2) For the purposes of sub-section (1), the offence specified in the Schedule shall not be regarded as offences of a political character.

(3) The Central Government having regard to the

extradition treaty made by India with any foreign State may, by notified order, add or omit any offence from the list given in the Schedule.]

9. The submission of Id. Counsel for the Petitioner is that the Petitioner is entitled to discharge as more than two months have lapsed since he was committed and he has not been conveyed out of India. In the opinion of this Court, Section 24 cannot be read in isolation and has to be read along with Section 31. The “*sufficient cause*” due to which the Petitioner may not be discharged would include grounds mentioned in Section 31(1)(d). The grounds under Section 31 have already been examined in judgment dated 7th April, 2021 and this Court has already arrived at the conclusion that the Petitioner cannot be extradited in view of the other offences for which he is currently being tried.

10. However, this would not mean that the Petitioner cannot enjoy the benefits of the orders of the Courts in Goa granting him bail. The following three FIRs are pending against the Petitioner in Goa:

- i) Mapusa Police Station Goa, FIR No. 275/2019 u/s 419 and section 420 of the IPC- arrested on 15th January 2020 and released on conditional bail on 20th January 2020.
- ii) Mapusa Police Station Goa, FIR No. 02/2020 u/s 380 read with section 34 of the IPC – arrested on 5th January 2020 and released on conditional bail on 15th January 2020.
- iii) Margao Town Police Station Goa, FIR No. 3/2020 u/s 420 of IPC and Section 66 of the IT Act, 2000 – arrested on 21st January 2020 and released on conditional bail on 24th January 2020, with a specific condition that the accused cannot leave the State of Goa and the

Country.

11. In the first FIR, being FIR No. 275/2019, the Petitioner has already been released on conditional bail, subject to the following conditions:

“The applicant is released on P.R. Bond of Rs. 25,000/- each (Rupees Twenty-Five Thousand only) with one local surety in the like amount.

The applicant shall abide by the following conditions, failing which his bail shall stand canceled:

a. That applicant shall not commit any offence while he is on Bail.

b. That applicant shall not directly or Indirectly make any inducement threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

c. The Applicant shall not leave the Country or the State of Goa without the prior permission of this Court.

d. The Applicant shall furnish copy of his Passport and Visa to the Investigating Officer and the Investigation Officer to verify the same.

e. The applicant to produce duly filled Form 'C' carrying the details of his passport and visa.

f. The Applicant shall furnish his detailed temporary residential address in Goa as well as his permanent residential address of his native place with Photo Identity proof and contact number to the Investigating Officer. The Investigating Officer to verify the address.

g. The Applicant shall attend at the Mapusa police station after every 15 days till the filling of the chargesheet and the time of attendance shall be between 4.00 pm to 5:00 pm.

h. The Applicant shall remain present at the police station and in the Court as and when required by the Investigating Officer or by this Hon'ble Court.”

12. Similar bail orders have been passed in the other two FIRs as well. Considering the fact that one of the conditions is that the Petitioner would not leave the State of Goa, the Petitioner would be entitled to bail, however, strictly within the parameters and conditions extracted above.

13. Accordingly, in the facts and circumstances of this case, the Petitioner is permitted to be released on bail, strictly in terms of the orders passed by the competent Courts in Mapusa, Goa, subject to the conditions contained in the respective orders granting bail, including the order extracted herein above.

14. Since the Petitioner is currently located in Tihar Jail, Delhi, owing to the pendency of the extradition proceedings against him, bail is granted to him for being released in Goa. The Jail Superintendent and other authorities shall take steps to ensure that the Petitioner is relocated to Goa and he is released on bail in Goa after being produced before the concerned Magistrate, subject to the undertaking of the Petitioner that he shall strictly abide by the conditions imposed in the orders passed in the cases relating to the three FIRs mentioned above by the concerned courts.

15. Insofar as the permission to travel abroad is concerned, in two of the FIRs, the Petitioner has already been given permission to travel abroad. The Petitioner is at liberty to avail of his remedies for travelling abroad even in the third FIR. The question as to whether the Petitioner would be entitled to travel abroad, if permission is granted, would be decided by the appropriate Court which would consider the facts and circumstances and determine the same in accordance with the applicable law.

16. The Registry, as also Id. Counsel for the Respondent, shall communicate this order to the Jail Superintendent, Central Jail No.8, Tihar Jail, so that appropriate steps can be taken for production of the Petitioner before the appropriate Court in Goa on or before 13th May, 2021.

17. With these observations, the petition is disposed of. All pending applications are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

MAY 5, 2021/Rahul/C

