

14.03.2022

Sl. No. 15

Court No.13

B.M.

WPA 4062 of 2022

Onkar Nath Singh @ Sonu Singh

Vs.

Union of India & Ors.

(Via Video Conference)

Mr. Bratin Kumar Dey

Mr. Pradeep Pandey

... for the petitioner

Mr. Kallol Mondal

... for the UOI

The petitioner is aggrieved by an order dated 11th February, 2022 passed by the Senior Superintendent, Regional Passport Office, Kolkata asking him to show cause as to why his passport should not be impounded. The facts of the case are that the petitioner's passport was renewed on 10th August, 2021 before the appropriate authorities of India at Abu Dhabi.

By an FIR dated 17th October, 2019 the proceeding under Sections 498A and 354 of the Indian Penal Code, 1860 and Sections 3 & 4 of the Dowry Prohibition Act, 1961 has been initiated against the petitioner.

The writ petitioner obtained anticipatory bail from the Patna High Court in Criminal Miscellaneous case No.37839 of 2020 on 26th November, 2021.

The petitioner is working at Abu Dhabi where he is presently located. The petitioner claims that since he is

on bail as confirmed by the order of the Chief Judicial Magistrate, Ara on 8th December, 2021, the provisions of Section 6 of the Passport Act should not be applicable to him.

Reliance is placed on decision of Madhya Pradesh High Court reported in 2021 SCC Online MP 2326 (Hardik Shah v. Union of India & Anr.) and 2018 SCC Online MP 1775 (Navin Kumar Sonkar v. Union of India & Ors.).

Counsel for the Regional Passport Office, Union of India argued that the order of bail dated 8th December, 2021 clearly made applicable on the petitioner the provision of Section 438(2) of the Code of Criminal Procedure. Hence this Court is of the view that the alleged violation of Section 6 of the Passport Act by the petitioner should be viewed in the light of any permission that Chief Judicial Magistrate, Ara may grant the petitioner to exempt him from the rigors of Section 438(2) of the Code of Criminal Procedure.

Liberty is reserved to the petitioner to approach the Chief Judicial Magistrate, Ara.

In the facts of the case above, the show cause dated 11th February, 2022 shall not be given effect to for a period of two months.

With the aforesaid observations the writ petition is disposed of.

(Rajasekhar Mantha, J.)