



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.1789 of 2022

Sathishkumar

...Petitioner

Vs.

1. The Commissioner of Police,
Salem City,
Sankari Main Road,
Gugai, Salem - 636 006.
2. The Inspector of Police,
All Women Police Station,
Salem Town, Salem.
3. Airport Authority of India,
Immigration officer,
Chennai International Airport,
Chennai - 600 027.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the 1st and 2nd respondent to withdraw the Look Out Circular issued against the petitioner and communicate the same to the necessary authorities and allow the petitioner to travel Saudi without any hindrance and consequently not to harass the petitioner and his family members on the guise of enquiry/investigation.

For Petitioner : Mr.S.Sathyaraj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
for R1 & R2
Mr.Rabu Manohar for R3



O R D E R

This petition has been filed seeking to direct the 1st and 2nd respondent to withdraw the Look Out Circular issued against the petitioner and communicate the same to the necessary Authorities and allow the petitioner to travel Saudi Arabia without any hindrance.

2. The learned counsel for the petitioner would submit that the petitioner is a native of Kitchipalayam, Salem. The petitioner is working at Saudi Arabia in Fast Consortium Limited Company as Architecture Assistant since 2015, the petitioner is issued a Passport bearing No.Z2818032 valid till 31.07.2026.

3. He would further submit that the petitioner got married to Dhivy @ Shanmuga Priya on 01.09.2019. After marriage, the petitioner left to Saudi Arabia on 25.09.2019, since spouse Visa was not given to his wife, the petitioner was unable to take his wife to Saudi Arabia. Further due to pandemic situation there was delay in obtaining spouse Visa. Meanwhile, the petitioner's wife had filed a criminal complaint against the petitioner, based on which a case in Cr.No.68 of 2021 has been registered for the offence under Section 498 (A) of IPC. The petitioner moved an application for Anticipatory Bail before the District Court and obtained an order of bail on condition to appear before the respondent police daily at 10.30 am until further orders, thereafter the condition imposed on the petitioner was also totally relaxed. He would submit that the petitioner has not absconded and he was subjecting himself to due process of law. Whereas, on the request of the 2nd respondent, the 1st respondent has initiated the request of Look Out Circular and the Look Out Circular has been issued against the petitioner.

4. The learned counsel would further submit that because of the Look Out Circular, the petitioner was unable to travel out of India and there is a risk of him losing his employment. He would further submit that merely because a person is involved in a criminal case, he is not deprived of his fundamental rights. It is the fundamental right of a person to move anywhere he likes including foreign countries. Further, the case is pending against the petitioner is only on account of matrimonial dispute. He would submit that the petitioner undertakes to abide by any stringent conditions and is prepared to cooperate with the disposal of the Trial.

5. The learned Additional Public Prosecutor would submit that the 1st respondent has initiated the request for issuance of Look Out Circular against the petitioner fearing that he may go out of country and he may not be available for Trial.



6. At this juncture, the learned counsel for the petitioner would submit that the petitioner undertakes to abide by any stringent conditions and he will appear before the Trial Court on all the hearing dates fixed for his appearance. He would submit that in similar circumstances this Court in CrI.O.P.No.27741 of 2013 in the case of E.V.Perumal Samy Reddy and others Vs. The Deputy Commissioner of Police and another dated 31.10.2013 directed the respondent to withdraw the Look Out Circular and he would refer to the relevant paragraphs :-

"9.It is basic 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. One's such personal freedom and liberty cannot be abridged. In the celebrated in MENAKA GANDHI Vs. UNION OF INDIA [AIR 1978 SC 597], the Hon'ble Supreme Court upheld the constitutional right of persons to go abroad. The phrase no one shall be deprived of his 'life and liberty' except procedure established by law employed in Article 21, had deep and pervasive effect on fundamental right and human right. MENAKA GANTHI (supra) ushered a new era in the annals of Indian Human Rights Law. It had gone ahead of American concept of 'Due Process of Law'.

7. Mr.Rabu Manohar, learned counsel appearing for the 3rd respondent would submit that Look Out Circular has been initiated based on the request by the 1st respondent. In the event of the respondents 1 and 2 request to withdraw the Look Out Circular, the 3rd respondent will take appropriate steps to withdraw the same.

8. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 and 2 and the counsel for the 3rd respondent and perused the material available on records.

9. In this case, the petitioner is charged for the offence under Section 498(A) IPC. It is a matrimonial dispute, the petitioner is not an absconding accused, he has also given an undertaking that he will subject himself to due process of law and he would appear before the trial Court as and when required. Merely because a person is involved in a criminal case, he is not denude of his fundamental rights to travel abroad.

10. In view of the above, a direction is issued to the 1st and 2nd respondents to withdraw the Look Out Circular issued



against the petitioner and communicate the same to the 3rd respondent, so as to enable the petitioner to travel out of Country without any hindrance.

11. With the above direction, this writ petition is disposed of. The order of this Court shall be complied within a period of one week from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jas/tsh

To

1. The Commissioner of Police,
Salem City, Sankari Main Road,
Gugai, Salem - 636 006.
2. The Inspector of Police,
All Women Police Station,
Salem Town, Salem.
3. The Immigration officer,
Airport Authority of India,
Chennai International Airport,
Chennai - 600 027.
4. The Public Prosecutor,
High Court of Madras.

+4ccs to Mr.S.Sathyaraj, Advocate, S.R.No.15982
+1cc to Mr.Rabu Manohar, Advocate, S.R.No.15998

W.P.No.1789 of 2022

GPL[co]
NSK 24/03/2022