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CRL.O.P.No.18583 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.18583 of 2022

G.Anbalagan

... Petitioner

Versus

The State Represented by
The Addl. Superintend by Police,
SPE/CBI/ACB,
(R.C.No.7(A)03).

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the order dated 18.01.2016 in Crl.M.P.No.2/2015 in Crl.A.No.497/2013 passed by this Court instead of after getting renewal of the same directed to submit in the trial Court after renewal of the passport No.Z082752 issued on 07.12.2001. Further, the petitioner should not use renewed passport for going abroad, the petitioner may be pleased to retain the passport No.Z082752 issued on 07.12.2001 after renewal and the petitioner permit to travel abroad for the travelling purpose.

For Petitioner : Mr.M.Palanivel

For Respondent : Mr.Sudev Kumar,
Senior Public Prosecutor
for CBI Cases
(Deputy Legal Adviser)



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ORDER

This Criminal Original Petitioner has been filed to modify the order of this Court, dated 18.01.2016 in Crl.M.P.No.2 of 2015 in Crl.A.No.497 of 2013.

2.The learned counsel for the petitioner submitted that the petitioner is an accused in R.C.No.7(A)03, for offence under Sections 120(b) r/w 420, 468, 471 of IPC and Section 13(2) r/w 13(1)(e) and (d) of the Prevention of Corruption Act, 1988. During the course of investigation, the respondent conducted search in his house on 03.05.2003 and seized 15 documents, of which, one of the document is his passport in No.Z082752. On completion of investigation, charge sheet was filed before the learned XI Additional Special Judge for CBI Cases, Chennai in C.C.No.16 of 2005, after completion of trial, the petitioner was convicted and sentenced, vide judgment, dated 27.06.2013. Aggrieved against the same, the petitioner preferred an appeal before this Court in C.A.No.497 of 2013 and the same is pending. During trial, the passport of the petitioner is neither marked on the side of



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3.The learned counsel further submitted that the petitioner hails from the traditional family, his father is one of the eminent state leader in Tamil Nadu and he was elected as Member of Legislative Assembly and was also a Minister in Tamil Nadu in the cabinet of Aringnar Anna and Kalaighnar Karunanithi. The petitioner's family is deep rooted in the state of Tamil Nadu. After demise of his father, the petitioner's mother late Mrs.A.G.Padmavathi was elected as MLA for two terms. Though the petitioner is in custody of his passport, the petitioner cannot use the renewed passport to go abroad due to the condition imposed by this Court. Hence, the petitioner is unable to apply for visa and travel to foreign countries. He further submitted that though the petitioner was able to obtain the order in the year 2016 for return of passport and for renewal, due to his health ailments, he could not immediately receive the passport and only in the year 2020, he could receive his passport, during the interim period, COVID-19 pandemic was at its peak. The petitioner was advised not to move outside due to his old age and health ailments. As per direction, the petitioner surrendered his passport before the trial Court without renewal on 21.08.2022. Now, the petitioner seeks



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direction of this Court directing the trial Court to return the passport with a permission for renewal and to apply for visa to go abroad.

4.Mr.Sudev Kumar, Senior Public Prosecutor for CBI Cases (Deputy Legal Adviser) appearing for the respondent filed counter and submitted that the petitioner was convicted by the learned XI Additional Special Judge for CBI Cases, Chennai in C.C.No.16 of 2005 on 27.06.2013. Aggrieved against the same, he filed an appeal in C.A.No.497 of 2013 before this Court and thereafter, the petitioner was enlarged on bail by suspending the sentence on 23.07.2020 with conditions. The passport of the petitioner was seized by the respondent during investigation and the same was not marked as exhibit in this case. During the pendency of the appeal, the petitioner filed Crl.M.P.No.2 of 2015 in Crl.A.No.497 of 2013, this Court, by order, dated 18.01.2016 directed the respondent to return the passport to the petitioner with conditions. The petitioner received his passport on 06.11.2020 and surrendered the same before the trial Court without renewal on 21.08.2022. Since the appeal is pending, some restrictions to be imposed



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to ensure the petitioner's presence during final hearing of the appeal. He further submitted that the renewal of passport would take sometime as well as for obtaining visa to foreign countries, more particularly, USA. Considering the same, appropriate orders can be passed by this Court.

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

6.The passport of the petitioner is not marked as material object during trial despite seized during investigation. The passport later returned to the petitioner for the purpose of renewal as per order of this Court, dated 18.01.2016. Since the petitioner was unable to renew the passport for quite sometime, he surrendered the same before the trial Court. Now, the petitioner needs his passport for the purpose of renewal and travel to UK, USA, Malaysia and Singapore for scouting bride for his sons. The petitioner having two sons one in USA and another in UK, which is not in dispute. The petitioner's purpose to visit abroad is not doubted. As a father, the petitioner to make arrangements for marriage of



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his two sons. Hence, the travel of the petitioner to go abroad cannot be denied. The only requirement is that the petitioner to be available during final hearing of the appeal.

7.Considering the submission that the petitioner, as a father, has to make arrangements for marriage of his two sons and further, it might take sometime for the appeal to be taken up for final disposal, this Court is inclined to grant permission for the petitioner to renew his passport and to travel to USA, UK, Malaysia and Singapore with the following conditions:-

(i)The learned XI Additional Special Judge for CBI Cases, Chennai is directed to handover the passport of the petitioner in No.Z082752.

(ii)The concerned Passport Authority to renew the passport of the petitioner in No.Z082752, for a period of four years.

(iii)After renewal, the petitioner can submit his passport for obtaining visa to visit USA UK, Malaysia and Singapore.

(iv)Before leaving to abroad, the petitioner to furnish the details of his travel viz., air tickets, likely date of departure and arrival, visa



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particulars, place of stay and contact details before the trial Court and the copy of the same to be submitted to the respondent.

8.With the above directions, this Criminal Original Petition is disposed of.

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Index: Yes/No

Internet: Yes/No

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To

1.The Additional Superintendent by Police,
SPE/CBI/ACB.

2.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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