



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No. 13639 of 2021

in

Crl.O.P.No.4371 of 2015

S. Kannan

... Petitioner

Versus

The State by
Deputy Superintendent of Police
CBI, STF
New Delhi.

... Respondents

PRAYER: Criminal Miscellaneous Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition imposed on the petitioner with regard to return of passport in Crl.M.P.No.02 of 2015 in Crl.O.P.No.4371 of 2015 dated 10.12.2015 and permit the petitioner to take back the passport now in custody of Special Court No.1 for trial of criminal cases against Mps & MLAs, Chennai in C.C.No.10 of 2019, for processing VISA application for Canada which had expired on 30.05.2016.

For Petitioner : M/S.M.Sneha
for M.A.Vimalmohan

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor

ORDER

The petitioner/Accused(A6), who is facing trial in C.C. No. 10 of 2019 before the XIV Additional City Civil Judge, Chennai for CBI cases Chennai for alleged offences under Sections 120-B r/w 409, 420 IPC and Section 13(2) r/w 13(1)(C) and 13(1)(d) of the Prevention of Corruption Act, 1988.



2.The petitioner submits that he was arrested on 21.01.2015 and remanded to judicial custody on 22.01.2015. Thereafter, he was granted bail by this Court on 02.03.2015 in CrI.O.P.No.4371 of 2015. While granting bail, this Court has imposed several conditions. One among is that the petitioner shall surrender his passport and if he is not having the same, he shall file an affidavit to that effect before the concerned Court. Thereafter, the petitioner surrendered his passport before the lower Court on 04.03.2015. The petitioner is a Chief Executive Officer and runs the business of the company and he is involved in the day to day affairs of the company. One of the business interest of the company is that they have are engaged in airline business, for their needs and to purchase Bombardier flight. The petitioner needs to travel to Canada and he is regularly traveling abroad. Each time, he used to inform the lower Court by giving details about his date of departure, arrival, place of stay and contact details and receive the passport. After returning from abroad, he re-submits passport before the Court below. This is in compliance with the order passed in CrI.M.P.No.2 of 2015 in CrI.O.P.No.4371 of 2015 dated 10.12.2015. Thus, the petitioner permitted to travel abroad using his passport. Meanwhile, to renew his passport as well as his children passports, he filed a Criminal Miscellaneous Petition in CrI.M.P.No.4421 of 2016 in CrI.O.P.No.4371 of 2015 and this Court by order dated 21.04.2016 permitted the petitioner to receive his passport for a period of 15 days, after filing affidavit before the concerned Court. Thereafter, he filed another Criminal Miscellaneous Petition in CrI.M.P.No.13995 of 2019 in CrI.O.P.No.4371 of 2015 seeking return of his passport for undergoing open heart surgery, abroad. This Court by its Order dated 04.10.2019 permitted the petitioner to travel for heart surgery with a condition that after returning back from abroad, he must surrender his passport before the concerned Court. Since, there was some doubts in the order dated 04.10.2019, the petitioner filed another Criminal Miscellaneous Petition in CrI.M.P.No.1930 of 2020 in CrI.O.P.No.4371 of 2015 seeking clarification, on the conditions imposed and this Court by its order dated 19.02.2020 reiterated the original order passed in Criminal Original Petition No. 4371 of 2015. Presently, the petitioner filed this petition for the reason that the petitioner needs his passport for the purpose of stamping Canada VISA.

3.Further, he submits that there is a meeting with Advantech Wireless Technologies and the said meeting is critical and essential for business growth. His VISA for Canada got expired as early as 30.05.2016 and the same to be renewed, unless VISA stamped he will not be in a position to travel, attend the important business meeting. For processing the Canada VISA, it approximately takes about 40 to 60 days, due to the prevailing COVID 19 and Omicron pandemic and for this purpose for a limited period, he seeks return of his passport. Further he submits that on pervious occasions, whenever the passport



returned to the petitioner, he had re-submitted the same before the trial Court. Now, for the purpose of stamping of Canada VISA, he seeks return of his passport.

4. The learned Special Public Prosecutor, CBI filed his counter stating, the necessity and gravity of the offence of the petitioner is facing, he further submitted that getting VISA and Hereafter to travel abroad indicate petitioner to avoid attending the trial Court. During earlier occasions, when the passport was returned, the condition was different, now out of 76 witnesses, 49 witnesses already examined and the case is now at crucial stage. During this period, if the petitioner is permitted to travel abroad, there is likelihood of he absconding and might not return back to India and trial will be hampered. Hence, he raises his objections for returning of petitioner's passport.

5. On perusing the materials and the submissions made by the petitioner and the Special Public Prosecutor, this Court finds that on several occasions, petitioner obtained his passport left India for the purpose of business and health reasons and returned back and re-submitted his passport, the petitioner has deep social roots, who is residing with his family, the apprehension that the petitioner would abscond cannot be proper. Further, the petitioner is a Chief Executive Officer, who needs his passport presently for stamping of Canadian VISA for his future business. Hence, this Court is inclined to permit the petitioner to get back his passport from the trial Court by filing affidavit, thereafter, as soon as Canadian VISA is stamped, petitioner shall re-submit his passport before the trial Court.

6. With the above directions, this Criminal Miscellaneous Petition is also disposed of.

-sd/-
19/01/2022

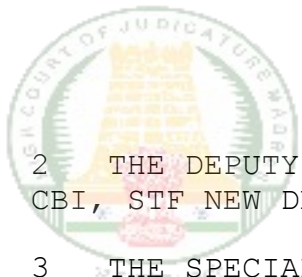
This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT NO. I
FOR TRIAL OF CRIMINAL CASES AGAINST MPS &
MLAS, CHENNAI.



2 THE DEPUTY SUPERINTENDENT OF POLICE,
CBI, STF NEW DELHI

3 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES HIGH COURT, MADRAS.

+1 C.C. to M/S. M.A.VIMALMOHAN Advocate on payment of necessary
charges SR.NO.824

Order

in
CRL MP.13639/2021
in
CRL OP.4371/2015

Date :19/01/2022

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JPA 21/01/2022