IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02..02..2022

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Criminal Original Petition No.25233 of 2021

Melevettil Padmanabhan ... Petitioner /Accused No.6

-Versus-

1.The Inspector of Police,
CBI/ACB/Chennai.
[RS.No.MA12017A0032/2017]

2.The Superintendent of Police,
BS & FC, Central Bureau of Investigation,
Bengaluru. ... Respondents /Complainant

Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to set aside the order dated 13.12.2021 passed by the learned XI Additional Special Judge for CBI Cases (cases relating to bank and financial institution) Chennai in Crl.M.P.No.8163 of 2021 in RC MA1 2017 A0032 of 2017 on the file of the 2nd respondent and to permit the petitioner to travel USA for a period of four months

For Petitioner	: Mr.Abudu Kumar Rajaratnam for Mr.S.Ashok Kumar
For Respondent	: Mr.K.Srinivasan, Special Public Prosecutor for CBI Cases

ORDER

This original petition has been filed by A6 in RC MA1 2017 A0032 of 2017 on the file of the 2nd respondent seeking to set side the order dated 13.12.2021 passed by the learned Additional Special Judge, Special Court for exclusive trial of CBI Cases relating to bank and financial institution, Chennai, dismissing the application filed by the petitioner in Crl.M.P.No.8163 of 2021 seeking permission to travel abroad from 13.12.2021 to 17.04.2021 to visit his daughters and grand children.

2. The facts leading to the filing of the present petition in brief are as follows: The 2nd respondent on the basis of a source information , registered the case against the six accused including the petitioner herein for alleged offence u/s.120-B r/w 420 of IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. The petitioner has been arrayed as A6 in the case. The petitioner was the Director and Non Executive Chairman of M/s.Quintegra Solutions Limited which is a software company. Earlier the company availed huge loan from the State Bank of India (SBI) and committed default in repayment of loan. The total outstanding due in respect of the loan on was Rs.214 crores. Subsequently, the company entered into an One Time Settlement (OTS) with the SBI by which the company had agreed to settle Rs.14.05 cores. The company entered into OTS for meager amount and thereby caused loss to the SBI to the tune of Rs.200 crores. Alleging that huge waiver of principal portion of term loan running close to 90 crore is very unusual and against the rules and procedures of SBI and RBI and thus, the officials of SBI, Overseas Branch, Chennai, officials of SBI, Stressed Assets Management, Chennai and the officials of the said company caused wrongful loss of more than Rs.200 crores to the SBI and corresponding wrongful gain to the accused persons.

3. Insofar as the petitioner (A6) is concerned, the allegation is that he was actively involved in the day to day affairs of the company which availed loan and he was also the part of the conspiracy hatched by the accused persons to cheat the SBI. After the FIR was registered, a Look Out Circular (LOC) was issued agains the petitioner preventing him from fleeing out of the country and that LOC has been subsequently renewed from time to time and it has been still in force. While so, the petitioner had approached the court below seeking permission to travel USA to visit his two daughters and grand children. That application was dismissed by the court below holding that as LOC has been pending against the petitioner and the petitioner who has been arrayed as accused involving pecuniary offence totalling to rupees two hundred crore is not entitled for permission to go abroad. It is this order, which is now under challenge in this original petition.

4. Mr.Abudu Kumar Rajaratnam, learned cousnel appearing for the petitioner would submit that the occurrence was taken place in the year 2017 and the petitioner was not arrested by the respondent till date. The petitioner is very much available for interrogation and in fact, he has been regularly appearing before the investigation officer concerned. Therefore, according to him, the issuance of LOC was not warranted. That apart, the petitioner was only an independent Director and Non Executive Chairman of the company and he was not actively involved in the day to day affairs of the company and was not in charge of the

company. The petitioner has been falsely implicated in the case.

5. On merits, the learned counsel would submit that OTS was entered into between the company and the bank with the concurrence of the Head Office of the bank and the proposal was also approved by the Chairman and Board of SBI.The petitioner did not obtain any pecuniary advantage. The learned counsel would further submit that the petitioner assures that he would travel abroad for four months to visit his daughters and grand children and he is prepared to file an undertaking that he would return back and he is also prepared to furnish immovable security. The learned counsel would also submit that the petitioner ready to abide by any conditions that may be imposed by this court for the grant of permission to the petitioner to travel abroad and return back

6. Mr.K.Srinivasan, the learned counsel appearing for the respondent - CBI would submit that the petitioner was the Executive Chairman of the company and he had actively participated in the day to day affairs of the company and he was also part of the conspiracy and thereby caused loss to the bank to the tune of Rs.200 crores.Apprehending that the petitioner may abscond and flee out of the country , the respondent-CBI had issued LOC which has been subsequently extended from time to time.

7. The learned Special Public Prosecutor would on instructions submit that the petitioner appeared once before the investigation officer and the respondent apprehends that if the petitioner is allowed to travel abroad, he would not return and hamper with the investigation. Therefore,the learned counsel prayed for dismissal of the petition.

8.I have considered the rival submissions carefully.

9.The occurrence was taken place in the year 2017. Admittedly, the petitioner appeared before the investigating officer concerned for interrogation and he is very much available for further interrogation. It is not the case of the respondent-CBI that the petitioner failed to appear despite notice for interrogation and was absconding. In such circumstances, in the considered opinion of this court, issuance of LOC in this case was not at all warranted. At this point of time, the custodial interrogation of the petitioner would not be necessary.

10.Now, the petitioner wanted to go to USA to visit his daughters and grand children and stay there for four months and undertook to return back immediately after the expiry of four months. In the light of the submissions made on behalf of the petitioner and on considering the other facts and circumstances of the case, more particularly, the petitioner was cooperative with the investigation till date and also considering the fact that the purpose of visit is genuine, this court is of the view that the petitioner could be allowed to visit USA for four months on certain stringent conditions.

11.Accordingly, the Criminal Original Petition is allowed and order of the court below impugned in this original petition stand set aside. The petitioner is allowed to travel USA between 21.02.2022 and 20.06.2022 in the following terms:

(i) that the petitioner shall be allowed to leave India on or before 21.02.2022 and return to India on or before 20.06.2022 without any reference to LOC issued against him;

(ii) that the petitioner or any one of his close relatives shall furnish immovable property security worth for Rs.2.00 crores (Rupees Two Crores only) to the satisfaction of the learned Additional Special Judge for CBI Cases (cases relating to bank and financial institution) Chennai by producing certified copy of the title deed;

(iii) the petitioner shall furnish the details such as, name, address, local contact number (mobile number) of the person or persons whom he is going to visit in USA besides local contact number and alternative number in Chennai;

(iv) that after returning to India, the petitioner shall report before the respondent-CBI on 24.06.2022; and

(v) that the Look Out Circular (LOC) issued by the respondent-CBI against the petitioner is directed to be kept in abeyance until 25.06.2022.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The XI Addl. Spl. Judge for CBI Cases
(cases relating to bank and financial
institution) Chennai.

2.The Inspector of Police,
CBI/ACB/Chennai.

3.The Superintendent of Police,
BS & FC, Central Bureau of Investigation,
Bengaluru.

4.The Special Public Prosecutor for CBI Cases,
High Court, Madras.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Ashok Kumar, Advocate, S.R.No.6606

Crl.O.P.No.25233 of 2021

RK(CO)
GN(03/02/2022)