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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

WP(MD)No.7628 of 2022
and
WMP(MD)No.5766 of 2022

Gideon Jacob

: Petitioner

Vs.

1.The Union of India,
Ministry of External Affairs,
No.4095, B Wing,
Jawaharlal Nehru Bhawan,
23-D, Janpath, New Delhi.

2.The Regional Passport Officer,
Regional Passport Office,
Tiruchirappalli-620 002.

3.The Union of India,
Rep. by its Inspector of Police,
Central Bureau of Investigation (CBI)
Special Crime Branch (SCB),
17, 5th Avenue, Thiruvalluvar Nagar,
Besant Nagar, Chennai.

: Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to give permission to the petitioner to visit Germany for a period of one month from 01/05/2022 to 31/05/2022, on the basis of the petitioner's representation, dated 12/04/2022 and pass such further orders.

For Petitioner

: Mr.Isaac Mohan Lal
Senior counsel
for Mr.K.Samidurai

For Respondents

: M/s.L.Victoria Gowri
Assistant Solicitor General
of India

**ORDER**

The writ petition has been filed seeking for a direction to the respondents to give permission to the petitioner to visit Germany for a period of one month from 01/05/2022 to 31/05/2022, on the basis of his representation, dated 12/04/2022.

2. The brief facts:-

The petitioner is an Indian citizen having permanent residence in Germany. He is also working as 'Senior Pastor of Good Shepherd Evangelical Mission Private Limited. His wife and son are also in Germany and they are also having Germany citizenship. Even though, the petitioner is having double citizenship, he used to visit India, for managing the properties. A case in Crime No.548 of 2015 was registered against him under the provisions of section 20(2) of Tamil Nadu Hostel & Homes for Women and Children Regulation Act, 2014 and section 23 of the Juvenile Justice Act, 2000. He was also arrested and later released on bail after a period of 90 days. Certain conditions were also imposed upon the petitioner. Thereafter, the conditions were completely relaxed in Cr.M.P No.247 of 2018, dated, 24/05/2018 by the District Judge, Trichy. In the meantime, the wife of the petitioner underwent six surgeries on her spinal-cord, foot and left hand in the year 2016-2017. He intended to visit Germany, on 13/06/2018. But he was told that his passport has been impounded. In the meantime, final report was also filed before the concerned court in SC No.125 of 2015 and another case in FIR No.RC1(S) 2016 CBI, SCB, Chennai. In the meantime, the CBI has filed revision against the order that was passed by the District Judge, Trichy, in Cr.M.P No.247 of 2018 and interim stay was also granted. He approached the second respondent for permitting him to visit abroad. That was also not considered. So, he filed a writ petition in WP(MD)No.24591 of 2018 and that was allowed on certain conditions. The order is, dated 07/01/2020. That was also complied. He has also produced the sureties. Later that writ petition was allowed by this court.

3.Challenging the final report filed in SC No.48 of 2020, he filed a quash petition in CrI.OP(MD)No.1403 of 2020. Interim stay was granted by this court in respect of proceeding in SC No.48 of 2020. In the meantime, SC No.48 of 2020 was transferred to Mahila Court, Trichy.

4.When that is being the position, the petitioner has to visit his ailing wife in Germany. Since her health condition is also deteriorating, a writ petition in WP(MD)No.1143 of 2021 was filed seeking permission to go abroad for three months. That was allowed by this court, on 29/07/2021. Now the Doctor has given advise to the petitioner to assist his wife. As mentioned earlier, even though,



letter was sent, there is no proper response. So, seeking the writ of mandamus, this petition came to be filed by the petitioner.

5. Heard both sides.

6. When CrI.OP(MD)No.1403 of 2020 was posted for hearing, the learned Senior counsel appearing for the petitioner was ready to get along with the hearing. At the request made by the respondents namely the learned Additional Solicitor General of India, it was adjourned. Even at that time, a request was made by the Senior counsel appearing for the petitioner stating that the petitioner has to visit Germany to assist his ailing wife, since her health condition is deteriorating day by day. On hearing, he requested to take the matter at the earliest. But however, the learned Additional Solicitor General of India appearing for the respondents was not ready. So the matter could not be taken up. At the time, permission was granted to the petitioner to move proper petition for appropriate relief. In pursuance of the same, this petition came to be filed.

7. Perusal of the records and earlier orders show that on more than one occasion, the petitioner was permitted to visit Germany for visiting his ailing wife. As mentioned in the petition, surety bond was also executed before the concerned court. Noting that such a surety bond already existed, this court permitted the petitioner to move WP(MD)No.11435 of 2021 and that writ petition was allowed on 29/07/2021 on the very same conditions. That was also considered by this court and he was also permitted to leave India, on 08/12/2021 and he was directed to return in India on or before 08/02/2022 and cooperate to complete the trial process. So on the very same ground, this petition is also moved.

8. The learned Additional Solicitor General of India would submit that even though, she has strong objection to allow this petition, a direction may be issued to the petitioner to inform his whereabouts to the respondents and his full address particulars. The objection made by the respondents counsel appears to be reasonable.

9. So I am of the considered view that for the purpose of assisting the ailing wife, the petitioner is permitted to visit Germany from 01/05/2022 to 31/05/2022 on the very same condition as well as the surety that was executed in pursuance of the above said order. The very same surety shall stand continued for the present petition also.

10. So on humanitarian ground, this petition is allowed on condition that the petitioner must return to India on or before 31/05/2022 and he must also inform his whereabouts to the respondents as well as the address immediately. The surety bound, which was executed by him in pursuance of of the order, that has



been passed in WMP(MD)No.17025 of 2021 in WP(MD)No.11425 of 2021 shall stand extended for this petition also as noted above.

11. With the above said direction, this Writ petition is **allowed**. No costs. Consequently connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1. Ministry of External Affairs,
The Union of India,
No.4095, B Wing,
Jawaharlal Nehru Bhawan,
23-D, Janpath, New Delhi.

2. The Regional Passport Officer,
Regional Passport Office,
Tiruchirappalli-620 002.

3. The Inspector of Police,
The Union of India,
Central Bureau of Investigation (CBI)
Special Crime Branch (SCB),
17, 5th Avenue, Thiruvalluvar Nagar,
Besant Nagar, Chennai.

Copy to

The Assistant Solicitor General of India,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-20952[F] dated 25/04/2022)

WP(MD)No.7628 of 2022
25.04.2022

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TR(05.05.2022) 4P 6C

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