

THE HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.43456 OF 2022

ORDER :

The petitioner is aggrieved by the action of the respondents in not cancelling the Look Out Circular (LOC) No.2016404672 issued against him in connection with FIR.No.378 of 2015 of KPHB Police Station, Hyderabad, (CC.No.1539 of 2015 on the file of X Additional Metropolitan Magistrate, Kukatpally), in spite of bail being granted *vide* order dated 16.08.2019 in CrI.M.P.No.6957 of 2019 in C.C.No.1539 of 2015 passed by the X Additional Metropolitan Magistrate, Kukatpally, and the release order dated 16.08.2019.

2. Heard learned counsel for the petitioner, learned Assistant Government Pleader for Home appearing for respondent Nos.1 to 4 and Ms. Peri Srmaithili representing Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India appearing for respondent Nos.5 to 7, and perused the material available on record.

3. Learned counsel for the petitioner submitted that the petitioner was granted bail *vide* order dated 16.08.2019 in CrI.M.P.No.6957 of 2019 in C.C.No.1539 of 2015 passed by the X Additional Metropolitan Magistrate, Cyberabad. The petitioner filed CrI.M.P.No.14 of 2020 before the trial Court to recall LOC pending against him. The said

application was dismissed by order dated 17.01.2020. The petitioner submitted that his constitutional and fundamental rights are infringed. He had been residing in Oman since 25 years and working there. As his mother was 90 years old and not keeping good health, he had to travel to India. When he reached Kannur International Airport on 04.08.2019, he was detained by the Airport authorities as his name figured in LOC.No.2016404672 in connection with FIR.No.378 of 2015 on the file of KPHB Police Station, Cyberabad, and warrant was issued by X Additional Metropolitan Magistrate, Kukatpally, in C.C.No.1539 of 2015. The petitioner is facing charge under Sections 420, 384, 323, 406 and 506 read with 34 IPC. It is stated that since 2019, the petitioner is stuck in India as immigration authorities are not allowing him to go abroad as LOC stands against his name and passport. For the past three years, the petitioner did not get a chance to travel to Oman to meet his wife and children. It is submitted by the learned counsel for the petitioner that action of the respondents in opening LOC even after the petitioner was granted bail is violative of Articles 14 and 21 of the Constitution of India.

4. Learned counsel appearing for respondent Nos.5 to 7 submitted that the petitioner has not challenged the order dated 17.01.2020 in

Crl.M.P.No.14 of 2010 in C.C.No.1539 of 2015 passed by the trial Court and this writ petition is not maintainable.

5. Learned Assistant Government Pleader for Home submitted that the petitioner has to avail alternative remedy and this writ petition is not maintainable.

6. The order dated 17.01.2020 in Crl.M.P.No.14 of 2010 in C.C.No.1539 of 2015 passed by the X Additional Metropolitan Magistrate, Cyberabad, Kukatpally, was not challenged by the petitioner. So long as the said order is staring at the petitioner, he cannot contend that his fundamental rights, more particularly protection of life and personal liberty enshrined under Article 21 of the Constitution of India, are being violated. Assuming that the petitioner is put to some inconvenience or hardship, it cannot be said that the same is done without following due process of law. Article 21 of the Constitution of India guarantees protection of life and personal liberty save otherwise than due process of law. In the instant case, the name of the petitioner was shown as accused and LOC was opened against him. On petitioner arriving at Kannur International Airport, he was detained in connection with FIR.No.378 of 2015, in which LOC was issued. Thus, the contention of the petitioner that Article 21 of the

Constitution of India is infringed, is without any legal basis and unsustainable. However, as the order dated 17.01.2020 in CrI.M.P.No.14 of 2020, rejecting the request of the petitioner for recalling LOC, was passed about more than 2 ½ years back and trial in C.C.No.1539 of 2015 has not commenced so far as stated by the learned counsel for the petitioner, liberty is granted to the petitioner to file fresh application impressing upon the trial Court that he cannot be detained in India for an indefinite period and there is no possibility for expeditious disposal of C.C.No.1539 of 2015. At the same time, the petitioner is also given liberty to challenge the order dated 17.01.2020 in CrI.M.P.No.14 of 2020 in C.C.No.1539 of 2015 passed by the X Additional Metropolitan Magistrate, Cyberabad, Kukatpally, by invoking appropriate legal remedy.

7. Subject to the above directions, the writ petition is disposed of.
No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the writ petition stand closed.

B. VIJAYSEN REDDY, J

02.12.2022
v v