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Crl.R.C.No.1473 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1473 of 2023

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... Petitioner

Vs.

The Senior Intelligence Officer,
Direcotrate of Revenue Intelligence,
Chennai Zonal Unit,
27, G.N.Chetty Road,
T.Nagar, Chennai – 17.

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to modify the conditions imposed by the learned Additional Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai in Crl.M.P.No.37 of 2023 in R.R.No.29 of 2022 dated 20.07.2023.

For Petitioner : Mr.R.Dhanasekar

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor
for DRI Cases



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ORDER

This Criminal Revision Case has been filed to modify the condition imposed by the learned Additional Chief Metropolitan Magistrate, E.O-II, Egmore, Chennai in Crl.M.P.No.37 of 2023 in R.R.No.29 of 2022, dated 20.07.2023.

2.The order passed by this Court on 15.11.2023 is as follows:

“The petitioner filed this petition challenging the order of the Lower Court permitting the petitioner to travel to United Kingdom to aid his wife for medical treatment for the period from 01.08.2023 to 31.08.2023 with certain conditions.

2.The contention of the learned counsel for the petitioner is that the Customs Authorities have no right to withhold the petitioner's passport and hence, his passport to be returned to him.

3.The learned Special Public Prosecutor opposes the same stating that it was the petitioner who had surrendered



the passport to the custody of the Lower Court while executing the sureties and it was not at the instance of the Customs Authorities. He would submit that it is one of the condition which the petitioner cannot question in this petition and the petitioner ought to have file a separate petition seeking relaxation of the condition. He further submitted that the petitioner was caught along with 1689 grams of gold biscuits which were seized and for adjudication, show cause notice has been issued.

4.The learned counsel for the petitioner submitted that the petitioner had questioned the show cause notice on the ground it is beyond the period of six months without authorization, for which he had filed a writ petition before this Court.

5.Learned Special Public Prosecutor submit that the only apprehension is that the petitioner if he allowed to travel to United Kingdom without any condition, the petitioner might not return back to India and participate in the adjudication proceedings.

6.In reply, the learned counsel for the petitioner submits that the petitioner is the Citizen of India, he owned



properties and assets in India. He would submit that he will file an affidavit giving all the details showing the date of his departure, arrival, place of stay in United Kingdom and contact details along with an undertaking that he will not be a reason for any delay in adjudication and criminal proceedings and hence, seeks time.”

3.Pursuant to the above order, the petitioner filed an affidavit giving details about his place of stay, contact details and email id of the petitioner as well as his daughter [new.alma@hotmail.com and fathimaebrahmisha@gmail.com].

4.The learned counsel for the petitioner filed the typed set of papers enclosing the driving license of the petitioner's daughter, copy of the title deed of the property at Door No.18, Coral Merchant Street, George Town, Muthialpet, Chennai – 600 001 in which the petitioner is residing, bank account details of the petitioner in State Bank of India and his daughter in Barclays Bank, United Kingdom. He further submitted that the petitioner intends to stay at United Kingdom along with his daughter at No.161, MID STOCKET ROAD, ABERDEEN, AB15, 5LU, UNITED KINGDOM.



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5.The learned Special Public Prosecutor for DRI Cases submitted that the only apprehension is that the petitioner must be available for confiscation proceedings and if prosecution to be launched against him. He would submit that the petitioner's passport was not seized by the Directorate of Revenue Intelligence and it was deposited before the Lower Court since it is one of the condition imposed in bail petition in Crl.M.P.No.167 of 2022 dated 14.12.2022. He further submitted that the petitioner may inform the DRI as well as the Lower Court about his date of actual departure and arrival with contact details.

6.Considering the submissions made and on perusal of the materials, it is seen that the Lower Court by order dated 20.07.2023 in Crl.M.P.No.37 of 2023 directed return of passport to the petitioner for a period of one month with certain conditions. The petitioner's daughter is in London, his wife is sick and the petitioner to visit London for her treatment is not seriously disputed. Hence, the period of one month could not be complied with by the petitioner. In view of the same, this Court is inclined to direct the Lower Court to return the passport to the petitioner with certain



conditions.

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7. Accordingly, the condition imposed by the learned Additional Chief Metropolitan Magistrate, E.O.-II, Egmore, Chennai in Crl.M.P.No.37 of 2023 dated 20.07.2023 is modified to the effect that the Lower Court shall hand over the passport to the petitioner and the petitioner to hold the passport for four months from the date of receipt of passport from the Lower Court and to apply for VISA and obtain Air ticket. Thereafter, the petitioner shall file a memo before the Lower Court in R.R.No.29 of 2022 furnishing the VISA details, copy of the Air Ticket, date of departure, date of arrival and place of stay with contact details. A copy of the same to be submitted to the Senior Intelligence Officer, Directorate of Revenue Intelligence, Chennai Zonal Unit. In addition, the petitioner to hand over the original title deed Document No.220 of 1994 pertaining to the property at Door No.18, Coral Merchant Street, George Town, Muthialpet, Chennai – 600 001 to the DRI. After returning from United Kingdom, the petitioner to inform the DRI about his return and collect the original title deed of course after resubmitting his passport before the Lower Court.



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WEB COPY 8. With the above directions, the Criminal Revision Petition stands disposed of.

12.12.2023

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: Issue order copy on 15.12.2023

To

1. The Senior Intelligence Officer,
Direcotrate of Revenue Intelligence,
Chennai Zonal Unit,
27, G.N.Chetty Road,
T.Nagar, Chennai – 17.
2. The Additional Chief Metropolitan Magistrate,
E.O.-II, Egmore,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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