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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 6638/2022 & CRL.M.A. 12182/2023**

DR KANWAR DEEP SINGH

..... Petitioner

Through: Mr. Vikram Chaudhari, Sr. Advocate
with Mr. Rishi Sehgal, Mr.
Keshavam Chaudhari, Mr.
Arveen Sekhon and Ms.
Prabhneer Swani, Advocates.

Versus

DIRECTORATE OF ENFORCEMENT

..... Respondent

Through: Mr. Zoheb Hossain, Special counsel
for ED with Mr. Vivek Gurnani and
Mr. Kartik Sabharwal, Advocates.
Date of Decision: 24.05.2023.

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CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

The present petition has been filed seeking modification of the conditions imposed upon the petitioner vide order dated 06.04.2021 passed by learned Special Judge, PMLA while releasing the petitioner on bail in ECIR/09/DLZO-I/2018 dated 11.07.2018.

It has further been prayed to permit the petitioner to travel to London, United Kingdom, from 20.12.2021 to 20.01.2023 for getting the post-operative treatment as the petitioner had undergone the treatment of prostate

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cancer at Medanta Hospital. Vide order dated 06.04.2021, the petitioner was released on bail by learned Special Judge and imposed following conditions:

- “i) He shall not tamper with the evidence.*
- ii) He shall not try to contact or influence the witnesses.*
- iii) He shall join further investigation, if any, as and when called upon to do so by the prosecuting agency.*
- iv) He shall not leave the country without the permission of the Court and shall deposit his passport with the Court if not already deposited.*
- v) He shall furnish his mobile numbers and e-mail IDs used by him to the prosecuting agency and shall also inform the change in mobile numbers and e-mail IDs, if any, to the IO.”*

Pursuant to this, the petitioner moved an application for permission to travel abroad to United States of America from 26.03.2022 to 26.04.2022 for appropriate medical treatment for serious ailment suffered by him including stage-II cancer i.e., carcinoma prostate. This application was allowed by the learned Trial Court vide order dated 08.04.2022.

Enforcement Directorate aggrieved of this filed CRL.M.C. 1748/2022. The co-ordinate bench of this court vide order dated 24.05.2022 allowed the petition and set aside the order passed by the learned Trial Court.

While the matter rested thus the petitioner again moved an application before the learned Trial Court seeking permission to travel abroad to London, United Kingdom for four weeks for the post-operative treatment. Learned Trial Court taking into account the contentions of both the parties and the order of this court dated 24.05.2022 dismissed the application of the petitioner. Aggrieved of this, the petitioner filed the present petition for the



permission to travel to United Kingdom for the post-operative treatment.

Mr. Vikram Chaudhary, learned senior counsel for the petitioner has vehemently argued that in deference to the order passed by this court, the petitioner underwent surgery at the Medanta Hospital. However, after the surgery there had been serious complications for which the petitioner is required to go to United Kingdom. Learned senior counsel has submitted that it is a fundamental right of every person to get an effective and appropriate medical treatment. Learned senior counsel has submitted that the reasonable conditions may be imposed and the petitioner may be permitted to travel abroad.

Mr. Zoheb Hossain, Learned Special counsel for the ED has opposed the request. Learned special counsel has submitted that the magnitude of the fraud committed by the petitioner runs around Rs. 1900 Crores. Learned special counsel submits that even in order dated 24.05.2022 the co-ordinate bench of this court has specifically mentioned that there are facts and circumstances in which the petitioner may not return back to India. Learned counsel submitted that in these circumstances, the petitioner may not be allowed to travel abroad. It is also pertinent to mention here that keeping into account the rival contentions and to ensure that nobody is deprived of the appropriate medical treatment the matter was referred to Post Graduate Institute Medical Education and Research, Chandigarh for the medical examination by the medical board. The medical board has submitted its report which is as under:

“This is to certify that Mr. Kanwar Deep Singh, 61 year male, s/o Sh. Amar Singh residence of House No. 159, Sector 9 8, Chandigarh (CR No. 202203870549) has been



diagnosed with localized Prostate Cancer. Now he requires Robotic Assisted neuroSafe Radical Prostatectomy and implantation of Amniofix (placental membrane imbibed with antifibrotic, anti-inflammatory and no growth factors). To the best of my knowledge neuroSafe Surgery and Amniofix implantation is not being practiced in our country. This additional procedure may increase his chances of regaining urinary continence at a faster pace.”

This court is conscious of the fact that every person has the right to get effective and proper medical treatment. Anybody has the right to have the medical treatment. Right to live healthy life with dignity is fundamental right of every citizen of this country. Therefore this court has always been of the firm view that the person should get all necessary medical treatment for being health. However, at the same time while dealing with such matter the court has to balance the right of the individual with the right of the prosecuting agency. The right of the prosecuting agency is equally important that is to ensure that the accused attends to the trial and may not abscond. The court has to strike a balance and to see that the person who has approached the court should not be deprived of the effective medical treatment and at the same time prosecuting agency may not suffer on account of non-availability of the accused person. In this regard, the report of the medical board becomes very important. The medical board has specifically stated that the treatment which is required for the petitioner can be provided in various medical institutions across India.

It is also a matter of record that the order dated 24.05.2022 has yet not been challenged by the petitioner.

In the present circumstances, I consider that the petition is liable to be dismissed.

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Needless to say, in case of exigency in circumstances, the petitioner may move an appropriate application in accordance with law.

DINESH KUMAR SHARMA, J

MAY 24, 2023/AR

