

395
18-09-2024
Ct. No.34
b.das

CRR No. 3937 of 2023

In the matter of : Arindam Bhattacharya.... petitioner.

Mr. Sabyasachi Banerjee
Ms. Minal Palna ...for the petitioner.

Mr. Jayanta Narayan Chatterjee
Ms. Moumita Pandit
Mr. Supreem Naskar
Ms. Jayashree Patra
Ms. Ritushree Banerjee
Ms. Sreeparna Ghosh
Ms. Pritha Sinha
Mr. Bhaskar Mondal ...for the opposite party.

Mr. Antarikhya Basu
Ms. Madhumita Basak ...for the State.

Mr. Krishnendu Bhattacharjee
Mr. Sujit Mitra ...for UOI.

Affidavit of service and supplementary affidavit
submitted by the petitioner are taken on record.

Heard learned counsels for the parties.

It is not in dispute that the petitioner is a seafarer
and needs to travel abroad for his profession.

Learned counsel for the petitioner submits that his
job requires him to sail for six months and remain on
shore for the remaining six months in every stint of one
year.

The earlier passport issued in favour of the petitioner was seized by the passport authority in view of the criminal case pending against him and the passport lapsed by efflux of time.

The petitioner sought no objection from the learned Trial Court for issuance of a passport in his favour and no objection was granted by the learned Trial Court vide order passed on 13th June, 2023 in GR 2317 of 2022 subject to certain conditions.

By an order passed on 18th August, 2023, the earlier order was modified to the extent that passport would be issued to the petitioner for a period of one year and the petitioner would be at liberty to get the period extended by further order of the Court.

Learned counsel submits that unless the passport is issued for a reasonable period, the petitioner shall not be in a position to apply for a job before the concerned authority.

Learned counsel for the private opposite party expresses his apprehension that the petitioner shall not be available for trial if passport is issued in his favour for a period of ten years.

Learned counsel for the government of India refers to Rule 570 E of the Ministry of External Affairs Notification dated 25th August, 1993 which demonstrates that passport can be issued in favour of citizens against

whom cases are pending before a criminal court in India for a period specified in the order of the Court and if no such period is specified for a period of one year.

Learned counsel submits that in the absence of any direction of this Court to that effect, the passport can be issued by the authority only for a period of one year and not further.

It is not in dispute that the petitioner needs to travel abroad for professional purpose. The petitioner submits that he has to sail for a period of six months at a stretch and shall be in a position to appear before the learned Trial Court on very date of hearing for the remaining six months.

Upon consideration of the material on record, nature of the profession of the petitioner as well as undertaking given by him, this Court is inclined to hold that passport be issued in favour of the petitioner for a period of three years subject to conditions laid down by the learned Trial Court in its order dated 13th June, 2023. The conditions are reiterated hereinbelow:

“The accused must avail this opportunity, strictly on professional purpose and the same should not be misunderstood with a vacation.

This restriction is applicable upon the accused till disposal of the petition filed by the de facto complainant or if the same is allowed, till completion of the further investigation, so ordered.

The accused must file an affidavit before the court on each and every such occasion of travelling abroad, well in advance, stating in detail the

intending whereabouts of the accused during such stay and the period and duration of any such stay.

He must appear physically before the court on the immediate next date fixed in this case, after returning from any such travel.

He must also be represented through his Ld. Counsel on each and every such date of his absence from the court.

He must not give rise to any such situation where coercive action is to be taken against him for ensuring his physical presence before the Court.

He must remain present physically before the Court on each and every such date when the same is specifically called for.”

The petitioner shall be at liberty to apply for renewal of his passport after the period of three years upon obtaining no objection from the learned Trial Court.

In the event the petitioner fails to comply with any of the conditions laid down above, the learned Trial Court shall be at liberty to take necessary steps against the petitioner without further reference to this Court.

In view of the above, the revisional application being CRR 3937 of 2023 is disposed of.

Case Diary be returned.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)