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Crl.R.C. No. 1416 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2024

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THE HON'BLE MR. JUSTICE M. NIRMALKUMAR

CRIMINAL REVISION CASE No.1416 of 2024

Adambakkam Murugan Indrakumari ..Petitioner

Vs.

State rep. by Inspector of Police,
CCB, Bank Fraud,
Chennai – 600 007. ..Respondent

Prayer: Criminal Revision Petition under Section 397 read with 401
Cr.P.C. to call for the record of the trial Court and set aside the impugned
order dated 09.08.2024 in Crl.M.P. No. 44736 of 2024 in C.C. No. 2853 of
2022 passed by the learned Metropolitan Magistrate, Additional CCB,
Egmore, Chennai.

For Petitioner :: Mr.A. Shabnam Banu

For Respondent :: Mr.A. Damodaran,
Addl. Public Prosecutor
O R D E R

The petitioner/Accused No.4 in C.C. No. 2853 of 2022 had filed an



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application in Crl.M.P. No. 44736 of 2024 before the Trial Court seeking permission to travel abroad to visit her only daughter, who is residing in The United States of America, due to her health condition, between August, 2024 and December, 2024. The Trial Court, by the order under challenge, negated the request of the petitioner and dismissed the petition. Hence, the present revision.

2. The contention of the learned counsel for the petitioner is that the petitioner is residing at No.1, Jeevan Nagar, 4th Street, Adambakkam, Chennai – 88 and she is aged about 76 years. She is a retired State Government employee. The petitioner had earlier filed a petition in Crl.M.P. No. 14570 of 2022 before the Trial Court seeking to dispense with her personal appearance on all hearing dates. The Trial Court, considering the petitioner's health condition, by order dated 09.09.2022, allowed the said petition and permitted the petitioner to be represented through a counsel on all future hearing dates and further directed that the petitioner shall appear as and when required by the Court and also that she must appear at the stage of first questioning, questioning under Section 313 Cr.P.C. and judgment. Hence, the learned counsel for the petitioner would submit that the presence



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of the petitioner before the Trial Court is not immediately required. Further, the learned counsel would submit that the family of the petitioner has four members, namely, the petitioner, her husband, a son and a daughter. The petitioner's husband Balan passed away on 21.09.2021 and her son Anbuselvan predeceased her husband on 14.09.2010. Her only daughter Rekha Balan, aged about 52 years is currently residing in the United States of America. The petitioner, who is in the evening of her life wants to visit her daughter and spend some time with her grandchildren. Her last visit to the United States was long time before. Hence, she is interested to travel to the United States between August, 2024 and December, 2024 to be with her daughter and grandchildren. The learned counsel for the petitioner would submit that the travel of petitioner to the United States will not in any way obstruct or hinder the progress of the case and the petitioner had cross-examined the witnesses as and when they were examined. Further, he would submit that there are still 12 more witnesses to be examined in this case and the case has been adjourned periodically, once or twice in a month and as per conservative estimate, the case will not get terminated before December, 2024. In view of the same, the petitioner's absence and travel to the United



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States will not in any way hinder the progress of the trial. As directed by the Trial Court in Crl.M.P. No. 14570 of 2022, the petitioner will be present before the Trial Court when she is required at the stage of 313 Cr.P.C. questioning and to receive the judgment. The learned counsel for the petitioner would add that the petitioner, to show her bona fides, is ready to deposit the title deeds of undivided share of land of 850 sq. ft at No.29, Jeevan Nagar, 4th street, Adambakkam, Chennai – 88. Though the property stands in the name of her husband, who is no more, the only legal heirs to the property are the petitioner and her daughter, who is in the United States. The learned counsel for the petitioner would submit that the property is valued at Rs.42 lakhs and the petitioner would file an affidavit stating that no encumbrance will be created. That apart, the petitioner would provide her travel itinerary giving details of her departure and arrival, her address of stay in the United States, contact details, email address and ensure that she is available and accessible in the said address.

3. Learned Additional Public Prosecutor has filed counter and submitted that the petitioner is Accused No.4, who is facing trial along with



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six others for the alleged offence of creating a forged sale deed as though to construct a building with 815 sq.ft using 161 UDS of land, that the said sale deed had been executed on 02.02.2017 and using the said document, all the accused joined together and approached Punjab National Bank in the name of M/s. Sri Nivas Constructions/A1, prepared a building plan for 815 sq.ft, using the same, availed overdraft facility to the company/A1 to the tune of Rs.42.78 lakhs. Initially, for a few months, EMI paid and thereafter, failed to make the payment, resulting in their loan account becoming NPA. During verification of documents, forgery found and thereafter complaint lodged. Based on the complaint, respondent Police registered a case in Crime No. 236 of 2021 on 17.12.2021 for offences under Sections 120(B) read with 420, 465, 467, 468, and 471 IPC. In this case, so far 9 witnesses examined and another 12 more witnesses are yet to be examined to complete the trial. Learned Additional Public Prosecutor submit that the trial is at a crucial stage and at this juncture, the petitioner is seeking permission to travel abroad. The only apprehension is that the petitioner may evade justice and may not be available for the trial. Since the trial, in all likelihood, will be completed within a period of six months, the petitioner can be permitted to



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travel after the completion of the trial. He would further submit that as far as the title deeds submitted by the petitioner are concerned, the SRO, Alandur confirmed that the property belongs to the petitioner's husband Balan and that the property is valued at Rs.42 lakhs. He would also submit that the petitioner was not arrested during investigation and no anticipatory bail application filed and no orders obtained. However, on completion of investigation, finding that the petitioner not available, away from India, a Look Out Circular issued and on her return from United States, petitioner detained by the Immigration Authorities at the Airport, summons served and thereafter, she is appearing before the Trial Court. According to the learned Additional Public Prosecutor, if the petitioner is permitted to leave to United States, then she may not be available.

4. Considered the submissions and perused the materials on record.

5. The petitioner is a widow, aged about 76 years, a retired State Government servant. The petitioner's husband and son have passed away.



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The petitioner, who is in the evening of her life, wishes to meet her only daughter residing in the United States and her grandchildren. Earlier, the Trial Court dispensed with the personal appearance of the petitioner on all future hearing dates and granted permission to be represented through counsel. The petitioner directed to appear at the stage of initial questioning, for 313 Cr.P.C. questioning and to receive judgment. The first questioning completed and as of now, 9 witnesses examined. Still 12 more witnesses to be examined. On conservative estimate, it is seen that trial to reach the stage of questioning certainly not before January 2025. The petitioner's absence and her travel to the United States will no way cause obstacle or delay the progress of the trial. The petitioner produced title deeds of the property valued at Rs.42 lakhs to show her bonafide to return back to India within the stipulated period.

6. For all the above reasons, this Court finds that the order dated 09.08.2024 passed in Crl.M.P. NO. 44736 of 2024 in C.C. No. 2853 of 2022 is not sustainable and the same is set aside. The petitioner is hereby granted permission to travel to the United States of America to meet her daughter



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subject to following conditions:

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- (i) *The petitioner shall file an affidavit before her departure from India giving the date of her departure, details of her travel to and from the United States of America, produce photostat copy of the Air ticket, passport and visa details;*
- (ii) *The petitioner shall deposit the original of the sale deed bearing Document No. 1097/2006 and the same to be kept in a sealed cover under safe custody. On her return from the United States, the original sale deed to be handed back to the petitioner;*
- (iii) *The petitioner shall execute a personal bond for a sum of Rs.10 lakhs.*

7. At this juncture, learned counsel for the petitioner submitted that since the Look Out Circular issued against the petitioner is yet to be withdrawn and the petitioner apprehends that she may be detained by the Immigration Authorities, not allowed to travel.



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8. In view of the apprehension made by the learned counsel for the petitioner, ***the Additional Commissioner of Police, CCB, Chennai, shall address a communication to the Assistant Foreigners Regional Registration Officer, Chennai*** informing him the order passed by this Court and remove the restrictions of travel imposed on the petitioner for the period from September, 2024 to January, 2025. The Immigration Authorities shall not restrict the free passage of the petitioner to United States and return to India.

9. The criminal revision petition stands allowed with the above directions.

19.09.2024

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(Note to Office: Issue today

(19.09.2024))



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M. NIRMALKUMAR,J.

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To

1. The Metropolitan Magistrate Court,
Additional CCB Court, Egmore,
Chennai.
2. Inspector of Police,
CCB, Bank Fraud,
Chennai – 600 007.

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3. The Public Prosecutor,
High Court, Madras.
4. The Assistant Foreigners Regional
Registration Officer, Chennai.

19.09.2024

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