



W.P.(MD)No.27912 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.27912 of 2024
and WMP(MD) Nos.23672 & 23673 of 2024

S. Ashok Kumar

... Petitioner

Vs

1. The Inspector of Police,
Tirunelveli Junction Police Station,
Tirunelveli.

2. The Bureau of Immigration (Ministry of Home Affairs),
Government of India,
New Delhi.

3. The Foreigner Regional Registration Officer,
Bureau of Immigration,
Shastri Bhavan Annexure Building,
26, Haddows Road,
Chennai 600 006.

4. The Immigration Officer,
Bureau of Immigration,
Anna International Airport,
Meenambakkam,
Chennai 600 027.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent herein to withdraw the lookout circular issued by the 2nd respondent against the petitioner forthwith as the same is contrary to his fundamental right to travel abroad and consider the petitioners representation, dated 18.11.2024.

For Petitioner : Mr.B.Kumar, Senior Counsel
For Respondents : Mr.A.Thiruvadikumar (R1)
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking a mandamus to direct the 2nd respondent to withdraw the lookout circular issued against the petitioner forthwith by considering his representation, dated 18.11.2024.

2.The petitioner is a Managing Director of Annai Infra Developers Limited. The first respondent had registered an FIR in Crime No. 51 of 2024 against the petitioner, based on the complaint given by the Commissioner of Tirunelveli Municipality, on the allegation that the petitioner had kept a bag containing cash near the seat of the Commissioner of Municipality to bribe him.



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3.Earlier, the petitioner had applied for anticipatory bail in CrI.O.P(MD) No. 2108 of 2024 and the same was withdrawn on 26.02.2024 and the second anticipatory bail petition filed in CrI.O.P(MD) No. 3902 of 2024, was dismissed on 13.03.2024. In the third anticipatory bail petition filed in CrI.O.P(MD) No. 5862 of 2024, this Court has granted interim protection to the petitioner on 17.04.2024 and later, the same was dismissed on 14.06.2024. However, in the order, dated 14.06.2024 this Court transferred the investigation of the said case to the file of Directorate of Vigilance and Anti-Corruption and directed the respondent therein to file a report.

4.In the meanwhile, the petitioner had approached the Apex Court in SLP No.47557 of 2024 and the Apex Court by order, dated 23.10.2024 stayed the operation of order in CrI.O.P(MD) No.5863 of 2024, dated 14.06.2024. Thus, as on date, no coercive action is being taken against the petitioner by the respondent police.



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5.The petitioner is doing business all over the world, he intends to travel to Malaysia for business purpose. However, he will not be permitted to leave India in view of the Look Out Circular, which has been issued by the second respondent, at the request of the first respondent.

6.Pursuant to the order of the Apex Court, there is no impediment for the petitioner to travel outside India, the petitioner had sent a request representation to the respondents on 18.11.2024 seeking to remove the Look Out Circular issued against him. However, no action has been taken by the respondents, the present writ petition has been filed.

7.The learned Additional Public Prosecutor submitted that the first respondent police has registered a case against the petitioner in Cr.No. 51 of 2024. Earlier, the anticipatory bail petitions filed by the petitioner on the two occasions were dismissed and in the third occasion, this Court has granted interim protection to the petitioner, later, the same



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was withdrawn. While dismissing the CrI.O.P(MD) No. 5863 of 2024, this Court by order, dated 14.06.2024 ordered transfer of investigation to the file of Directorate of Vigilance and Anti-Corruption. Now, the subject file is forwarded to the Secretariat for getting appropriate orders. In the meanwhile, the petitioner had approached the Apex Court in SLP No. 47557 of 2024 and the Apex Court by order, dated 23.10.2024 had admitted the SLP and granted stay of the order, dated 14.06.2024. Pursuant to the said order, till now the petitioner is not yet arrested and as on date there is no impediment or restriction for the petitioner's movement. Pursuant to the order passed by the Apex Court, there is no progress in the investigation.

8.Considering the submissions made on either side and perusal of records, it is seen that a case has been registered against the petitioner in Cr.No.51 of 2024 and aggrieved by the dismissal of anticipatory bail petition, the petitioner had approached the Apex Court and the Apex Court in SLP No.47557 of 2024 had passed the order on 23.10.2024. The relevant portion is extracted hereunder:



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“In the mean time, there shall be stay of operation of the impugned order and therefore, the petitioner shall not be arrested. Needless to state, the petitioner shall cooperate with the investigation”.

9.In view of the above facts, there is no impediment and necessity for the Look Out Circular in force, which is issued against the petitioner. Right to travel is a fundamental right of the petitioner. In this regard, the decision of the Apex Court in the case of Menaka Gandhi vs Union of India, dated 25.01.1978 reported in **1978 AIR 597**, has been followed even today. Hence, there is no impediment to the petitioner to have a free travel.

10.It is also seen from the affidavit filed by the petitioner that he intends to travel to Malaysia. The particulars of travel is mentioned in the affidavit in paragraph No.9, which is extracted hereunder:

“9. I state that I am a businessman and I am



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having business all over Tamilnadu and also having clients at abroad. Now I am going to business trip at Malaysia on 26.12.2024 by flight boarding at Thiruchirapalli staying at Jalan KLIA 1/60, KLIAA 43900 SEPANG MALAYSIA, SEPANG MAL and return back to 28.12.2024 at Thiruchirapalli.”

11.The petitioner in his affidavit in paragraph No.9, has given the details about his trip and in paragraph No. 11 he has given an undertaking that he will appear before the respondent police and co-operate with the investigation.

12.In view of the facts and circumstances of the case and considering the undertaking affidavit filed by the petitioner, the petitioner is having every right to travel. Hence, the Deputy Commissioner of Police, Tirunelveli, who is the originator and on whose request the second respondent had issued Look Out Circular, is directed to give request to the second respondent to withdraw the Look Out



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Circular forthwith.

13. With the above directions, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed.

18.12.2024

Index: Yes/No

Internet : Yes/No

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M.NIRMAL KUMAR, J.

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