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

+ **CRL.M.C. 2148/2023**

HITESH KOTHARI

..... Petitioner

Through: Mr.Rahul Raheja, Advocate

versus

DIRECTORATE OF REVENUE INTELLIGENCE Respondent

Through: Mr.Harpreet Singh, Sr.Standing Counsel

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

09.01.2024

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1. By way of present petition filed under Section 482 Cr.P.C., the petitioner seeks setting aside/modify of the bail condition No.(III) of the order dated 02.05.2011 whereby he was admitted to bail in Remand Paper No.363 titled as '*DRI Vs. Hitesh Kothari*'.
2. Notably, the petitioner was arrested on 01.04.2011 by the DRI for the offences punishable under Sections 132, 135 (1) (b) and 135 (1) (c) of the Customs Act, 1962.
3. Learned counsels for the parties inform that in the adjudication proceedings, the Tribunal has remanded back the matter for reconsideration, which is still statedly pending. Insofar as the present proceedings are concerned, concededly no complaint has been filed till date despite passing of 12 years.
4. In between, the petitioner has preferred an application before learned



CMM for modification of the conditions and vide order dated 05.08.2019, the petitioner was permitted to travel abroad for a period of six months from 07.08.2019 till 05.01.2020. Vide subsequent order dated 17.02.2020, the petitioner was permitted to travel abroad for a period of one year from 17.02.2020 to 16.02.2021. Pertinently, the petitioner's request to travel abroad came in the backdrop as his daughter got admission and the petitioner needed to visit there. The petitioner however, could not make good of the order as his passport, which was seized by the DRI, could not be traced, resulting in petitioner's applying for a fresh passport for which he was required to take NoC from the Court concerned. Apparently, the petitioner approached concerned Court however, was granted NoC only for a period of three years instead of 10 years, that was prayed. The petitioner's grievance is premised on the fact that no complaint having been filed for a period of 12 years, the condition No. (III) in the bail order whereby he was directed to surrender the passport has become unreasonable.

5. The petitioner has placed reliance on a decision passed in CRL.M.C. 973/2011 titled Suresh Nanda v. CBI to say that the person's right to retain passport and to travel abroad has been considered favourably by this Court. The petitioner has approached this Court earlier by way of CRL.M.C. 256/2023 whereby he was granted liberty to approach Trial Court at the first instance vide order dated 16.01.2023. The petitioner had approached the trial court however, his application is statedly pending consideration.

6. In the aforesaid backdrop, especially when no complaint having been filed for a period of 12 years and the trial court had already permitted the petitioner to travel abroad which could not be availed for the loss of passport, this Court deems it fit to replace the condition No.III in the bail



order dated 02.05.2011 with the condition that the petitioner before travelling abroad, will inform the court concerned of the itinerary.

7. In view of the present petition is disposed of.

MANOJ KUMAR OHRI, J

JANUARY 9, 2024

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