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

+ CRL.M.C. 8861/2023 and CRL.M.A. 33059/2023

KUSHAL RATHI Petitioner

Through: Mr. Rajesh Kumar, Advocate

versus

STATE Respondent

Through: Mr. Aashneet Singh, APP for State with
SI Laxman Kumar

+ CRL.M.C. 8864/2023 and CRL.M.A. 33064/2023

KUSHAL RATHI Petitioner

Through: Mr. Rajesh Kumar, Advocate

versus

STATE Respondent

Through: Mr. Aashneet Singh, APP for State with
Insp. Nikesh Kumar
Mr.Arjun Malik, Advocate for complainant

+ CRL.M.C. 8730/2023 and CRL.M.A. 32606/2023

KUSHAL RATHI Petitioner

Through: Mr. Rajesh Kumar, Advocate

versus

STATE Respondent

Through: Mr. Aashneet Singh, APP for State with
Insp. Jasveer Singh

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

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ORDER
22.04.2024



1. By way of present petitions filed under Section 482 Cr.P.C., the petitioner seeks modification of the bail conditions to the extent that his right to travel abroad has been restricted in FIR No.189/2016, FIR No.82/2018 and FIR No.244/2017.

2. Learned counsel for the petitioner submits that in FIR No.189/2016, the relevant extract of the bail condition reads as under:-

“(e) Applicant/accused shall not leave India without express permission of trial court, except in emergent situation. In emergent situation, he shall intimate and seek further permission from the court through his authorized representative/ counsel to leave India.”

In FIR No.244/2017, the relevant extract of the bail condition reads as under:-

“(II) The applicant / accused shall not leave the country without the permission of the trial Court and he shall deposit his passport in the trial Court within two days of his release from the Jail.”

In FIR No.82/2018, the relevant extract of the bail condition reads as under:-

“iv. Further, the applicants/accused person shall not leave the country and shall furnish their fresh address in case of change of their previous address”

3. The petitioner approached this Court for modification of the conditions imposed in FIR No. 82/2018 vide CRL.REV.P. 443/2021 and the same came to be allowed on 22.12.2021, with the following directions:-

“xxx

“...iv Further, the applicants / accused persons shall not leave the country and shall furnish their fresh address in case of change of their previous address”.



which is modified to read to the effect in relation thereto that the applicant, i.e., Kushal Rathi (as the application has been filed only by one of the accused, i.e., Kushal Rathi) shall not leave the country without the permission of the Trial Court and may be permitted to leave the country subject to terms and conditions that the Trial Court may impose if on consideration it deems it appropriate to grant such permission to travel... ”

4. Learned counsel for the petitioner submits that the aforesaid FIRs have been filed in relation to different set of victims for the same offence. The petitioner is aggrieved by the imposition of condition only *qua* the emergent situation as, though the petitioner has been permitted to travel abroad after giving due intimation, however, the same is made subject to permission of the Court. He submits that it may lead to a situation wherein the petitioner has travelled abroad in emergency, however, the permission is subsequently denied by the concerned court.
5. Learned APP for the State, duly assisted by learned counsel for the complainant, has opposed the present petitions. He submits that charges are yet to be framed. It is also submitted that on modification of the aforesaid conditions, the petitioner may become a flight risk.
6. At this stage, learned counsel for the petitioner submits that the petitioner has travelled abroad at least 10 times and has not misused the concession granted to him.
7. Learned APP for the State, on instructions from the I.O., confirms that the petitioner has travelled abroad multiple times and that no misuse has been found/reported.
8. Though the trial in relation to the 3 FIRs is pending before one court, however, notably, there is some variance in the imposition of conditions insofar as petitioner's travel in emergent situations is concerned. It is to be



noted that the liberty to travel on emergent ground was granted on account of the fact that petitioner's wife and child are living in Dubai. It is also informed that the petitioner has deposited Rs.25,00,000/- towards the bail conditions and further the co-accused has also deposited certain amounts.

9. It is also informed that in FIR No.82/2018, a settlement has been arrived at between the parties, which has also been acted upon. However, learned counsel for the complainant objects to the same and submits that the same is yet to be fully acted upon.

10. There has to be uniformity in the bail conditions. The orders as extracted above, show that there are chances of misconstruing the condition relating to emergent travel. Considering the aforesaid, the present petitions are disposed of alongwith the pending applications with a direction that insofar as petitioner's emergent travel is concerned, the same would be subject to giving a detailed itinerary to the concerned I.O. and that the same shall be not for a period beyond four weeks with rest of the conditions remaining the same.

MANOJ KUMAR OHRI, J

APRIL 22, 2024

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