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

+ **CRL.M.C. 8592/2024 & CRL.M.A. 32834/2024**

SANKEERTH MAMUNI VAIKKATHPetitioner

Through: Mr. Zulfiker Ali PS and Ms. Lebina
Baby, Advocates

versus

GOVERNMENT OF NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for
the State.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% **11.11.2024**

1. The instant petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter as the “BNSS”) [earlier under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter as the “Code”)] has been filed on behalf of the petitioner seeking the following reliefs –

“a) Quash the FIR No. 286/2021 registered at I.G.I Airport Police Station under Sections 420, 468 and 471 of IPC and/or Sections 318(4), 336(2) and 340(2) of Bharatiya Nyaya Sanhita, 2023 and Section 12 of the Passports Act, 1967 against this petitioner and entire proceeding in connection therewith;

b) Pass such other or further order(s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”



2. The brief facts of the case are that the petitioner herein is a graduate of B.Sc. in Catering Science and Hotel Management and was in search of a job after completing his course. During this time, the petitioner was offered a job in Canada by one Mr. Rajesh and upon asking, the petitioner entrusted his passport with Mr. Rajesh for getting it stamped with Canadian Visa. Accordingly, the petitioner paid a sum of Rs. 4,00,000/- for the said Visa as well as the flight ticket, which were returned to the petitioner.

3. On 17th October, 2021, when he was about to board the flight from Delhi to Canada, the security stopped the petitioner from doing so due to the Visa being fake. Thereafter, he was arrested and an FIR bearing no. 286/2021 at Police Station - IGI Airport, Delhi was registered against the petitioner under Sections 420/468/471 of the Indian Penal Code, 1860 (hereinafter as the “IPC”) and Section 12 of the Passports Act, 1967.

4. The petitioner was taken into police custody and was later released on bail on 21st October, 2021. Thereafter, he filed a petition bearing no. CRL M.C. 3546/2024 before the Co-ordinate Bench of this Court seeking quashing of the aforesaid FIR. Vide order dated 3rd May, 2024, the said petition was dismissed as withdrawn, however, the petitioner was given the liberty to approach this Court if the investigation is not concluded in the near future.

5. Aggrieved by the investigation not being concluded, the petitioner has filed the instant petition.

6. Learned counsel appearing on behalf of the petitioner submitted that the investigation in the instant case has not been concluded despite the order passed by the Co-ordinate Bench of this Court on 3rd May, 2024.

7. It is submitted that the petitioner herein is a victim of Mr. Rajesh,



who fraudulently collected a sum of Rs. 4,00,000/- on the pretext of offering a job and Canadian Visa to the petitioner. Despite the same, the investigation agency has failed to conclude the investigation.

8. It is further submitted that there has been an inordinate delay in concluding the investigation as the aforesaid FIR was registered on 17th October, 2021 and no final report or chargesheet has been filed till date.

9. Therefore, in light of the foregoing submissions, it is prayed that the instant petition may be allowed and the impugned FIR may be quashed.

10. Learned APP appearing on behalf of the State apprised this Court that on the earlier occasion, a similar petition seeking quashing of the aforesaid FIR was filed by the petitioner under Section 528 of the BNSS, however, the same was dismissed as withdrawn before the Co-ordinate Bench of this Court vide order dated 3rd May, 2024. The said order is annexed as Annexure P-6 to the instant petition, wherein, the liberty was granted to the petitioner to approach the Court in case the investigation is not concluded in the near future.

11. Learned APP appearing on behalf of the State submitted that the investigation agency has requested the Canadian Embassy to provide information regarding the verification of the petitioner's Visa, which was found from his possession and therefore, the investigation in the instant case is still underway.

12. It is submitted that the investigating agency is still awaiting the response from the Canadian Embassy and a reminder regarding the same was already sent to the Canadian Embassy. It is submitted that the investigation is still ongoing and the instant case is at a pre-mature stage for quashing of the FIR as the information sought by the Investigating Officer



from the Canadian Embassy is required for further verification of the petitioner's Visa in order to file an appropriate report, i.e., either the final report or chargesheet, as required.

13. Learned APP for the State further submitted on merit that the petitioner has no case for quashing of the FIR at this stage and the delay in investigation is not intentional as the same is dependent on the crucial information sought from the Canadian Embassy, which is still awaited by the investigating agency.

14. Therefore, in light of the aforesaid submissions, it is prayed that the instant petition, being devoid of any merits, is liable to be dismissed at this stage of investigation.

15. Heard learned counsel for the parties and perused the record.

16. At this juncture, it is pertinent to observe the contentions of the petitioner, wherein, it is submitted that the instant FIR may be quashed due to the delay on the part of the investigating agency in concluding the investigation.

17. It is a settled position of law that the investigation is expected to proceed in an expeditious manner to safeguard the rights and interests of the parties, especially that of the accused. If the investigation is proceeding at a lackadaisical pace and there has been an inordinate delay in concluding the same, then the Court may consider quashing of the FIR subject to the facts and circumstances of a given case.

18. However, what amounts to an 'inordinate' delay depends on the facts and circumstances of each case and therefore, if the delay in investigation is backed by reason and justification, the same cannot be in a routine and mechanical manner. The said context is encapsulated in the case of ***State of***



A.P. v. P.V. Pavithran, (1990) 2 SCC 340, wherein, the Hon'ble Supreme Court also observes various factors to be considered while quashing the FIR on the basis of delay in the investigation. The relevant paragraphs of the same are as follows –

“7. There is no denying the fact that a lethargic and lackadaisical manner of investigation over a prolonged period makes an accused in a criminal proceeding to live every moment under extreme emotional and mental stress and strain and to remain always under a fear psychosis. Therefore, it is imperative that if investigation of a criminal proceeding staggers on with tardy pace due to the indolence or inefficiency of the investigating agency causing unreasonable and substantial delay resulting in grave prejudice or disadvantage to the accused, the court as the protector of the right and personal liberty of the citizen will step in and resort to the drastic remedy of quashing further proceedings in such investigation.

8. While so, there are offences of grave magnitude such as diabolical crimes of conspiracy or clandestine crimes committed by members of the underworld with their tentacles spread over various parts of the country or even abroad. The very nature of such offences would necessarily involve considerable time for unearthing the crimes and bringing the culprits to book. Therefore, it is not possible to formulate inflexible guidelines or rigid principles of uniform application for speedy investigation or to stipulate any arbitrary period of limitation within which investigation in a criminal case should be completed.

9. The determination of the question whether the accused has been deprived of a fair trial on account of delayed or protracted investigation would also, therefore, depend on various factors including whether such delay was unreasonably long or caused deliberately or intentionally to hamper the defence of the accused or whether such delay was inevitable in



the nature of things or whether it was due to the dilatory tactics adopted by the accused. The court, in addition, has to consider whether such delay on the part of the investigating agency has caused grave prejudice or disadvantage to the accused.

10. The assessment of the above factors necessarily vary from case to case. It would, therefore, follow that no general and wide proposition of law can be formulated that whenever there is inordinate delay on the part of the investigating agency in completing the investigation, such delay, ipso facto, would provide ground for quashing the first information report or the proceedings arising therefrom.”

19. Keeping the aforesaid case-law in mind, in the instant case, it was brought forward that the investigating agency sought for certain information from the Canadian Embassy pertaining to the petitioner's Visa, regarding which the impugned FIR was registered.

20. However, ascertaining the said information is crucial for the investigative agency to conclude the investigation, thereby, either filing the final report or chargesheet, as the case maybe. Moreover, it is observed that despite reminding the concerned officials, no piece of information was provided to the investigating agency, which led to the delay in investigation.

21. Therefore, in light of the foregoing, it is observed that the delay caused by the investigative agency to conclude the investigation in the instant FIR is not intentional as the information sought from the Canadian Embassy is a determining factor for filing of the final report or chargesheet and in absence of the same, the investigation cannot be closed haphazardly. Furthermore, no cogent grounds are taken by the petitioner, which does not require the interference of this Court at this stage. The delay in filing the final report or chargesheet, further, does not cause any prejudice to the



petitioner given the merits of the case, as discussed above.

22. Taking into consideration the aforesaid facts and circumstances, along with the law laid down by the Hon'ble Supreme Court, this Court does not find any reason to interfere with the investigation at this stage.

23. Accordingly, the instant petition is dismissed alongwith the pending applications, if any.

CHANDRA DHARI SINGH, J

NOVEMBER 11, 2024
gs/mk/ryp

Click here to check corrigendum, if any