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

+ CRL.M.C. 9142/2024 & CRL.M.A. 35023/2024
NISHA RANI

.....Petitioner

Through: Mr. Omkar Sharma with Mr.
Himanshu Sharma, Mr. Ghanshyam
Sharma, Mr. Deepak Daima, Mr.
Inder Kumar Rawat and Mr. Prem
Nain Yadav, Advocates.

versus

THE STATE (NCT OF DELHI) & ANR.

.....Respondents

Through: Mr. Hitesh Vali, APP for the State
with SI Anil Khatana and ASI Laxmi
Nagar, P.S.: Lahori Gate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

22.11.2024

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CRL.M.A. 35022/2024 (exemption)

Exemption granted, subject to just exceptions.

The applications stand disposed-of.

CRL.M.C. 9142/2024

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner (wife) impugns order dated 11.11.2024 passed by the learned JFMC, Mahila Court, Tis Hazari District Courts, Delhi while deciding 02 applications : *one*, filed by respondent No.2 (husband) seeking release of his passport and Overseas Citizen of India ('OCI') card; and the



second, filed by the petitioner seeking a direction to impound the passport and OCI card of respondent No.2.

2. Through the impugned order the learned Magistrate has disposed-of both applications with the following direction :

“In view of the above as well as no objections of Ld. Substitute APP for the State and submissions made by the Ld. counsel for applicant alongwith grounds stated in the application filed on behalf of the accused, this court deems it fit to allow the application filed by the accused as no purpose would be served in retaining his passport as well as OCIC (Overseas Citizen of India Card), subject to following conditions :-

“(i) the accused shall inform the court in writing regarding change of his address during the pendency of investigation, inquiry or trial of the present case.

“(ii) the accused shall appear before this court either personally or through his counsel on each and every dates (sic : date) of hearing, failing which this court shall direct the originator of the LOC to reactivate the same

“Both applications stands (sic : stand) disposed off accordingly.”

3. Mr. Omkar Sharma, learned counsel appearing for the petitioner submits, that as is discernible even from a perusal of the impugned order, respondent No.2 had been absconding and had joined investigation only after he was arrested pursuant to a Look-out Circular (‘LoC’) that was opened against him.
4. Mr. Sharma submits, that respondent No.2 holds an OCI Card from Australia and there is every likelihood that he would misuse his passport and his OCI card by fleeing the country to evade the process of law.



5. Mr. Hitesh Vali, learned APP appears on behalf of the State on advance copy; and, on instructions of the Investigating Officer who is present, informs the court that investigation in the matter is complete; the chargesheet is at the final stage of preparation and will be filed in the next couple of days.
6. Mr. Vali also points-out, that *vide* order dated 21.10.2024 passed by the learned Magistrate, whereby respondent No.2 was admitted to bail, one of the conditions imposed is that respondent No.2 shall not leave India without prior permission of the learned Trial Court.
7. In the circumstances, it is clear that *merely* because the passport and the OCI card of respondent No.2 have been returned to him, it does not mean that respondent No.2 has a *carte-blanche* to leave the country since respondent No. 2 remains bound by the bail conditions imposed *vide* order dated 21.10.2024.
8. After hearing learned counsel appearing for the petitioner as well learned APP appearing for the State; and considering the circumstances obtaining in the case, this court sees no merit in the present petition; which is accordingly dismissed at the stage of issuance of notice itself.
9. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 22, 2024

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