

S/L 2
14.11.2025
Court. No. 25
suwayan

WPA 25171 of 2025

Md. Sorique Aziz Momin
Vs.
Union of India & Ors.

Mr. Bikram Banerjee
Ms. Debapriya Mitra
Mr. Sagar Dey

...for the petitioner.

Mr. Asok Kumar Chakraborti, ld. ASGI
Mr. Arijit Majumdar

...for U.O.I.

Mr. Dipankar Das Gupta

...for the State.

1. The affidavit-of-service filed by the learned counsel for the petitioner is kept with the record.
2. The petitioner has filed the present writ application with the prayer to grant a liberty to the petitioner to approach the concerned Trial Court wherein the criminal case is pending against the petitioner to pray for no objection to go to abroad and also specifying the period up to 2030 for which the passport is to be renewed with the permission to the depart from India and upon filing of such application the concerned criminal court shall dispose of the said application within a specific time.
3. Learned counsel for the petitioner submits that a criminal case has been initiated against the petitioner by the police of P.S. – Kalyani being Case no. 362 of 2025 dated April 17, 2025 under Sections 69/351(2)/77/3(5) of the BNS, 2023. After initiation of the case against the petitioner, the petitioner has applied for anticipatory bail initially by an order dated June 26, 2025 the learned

Sessions Judge, Nadia has granted anticipatory bail to the petitioner and subsequent by an order dated July 21, 2025 the condition imposed upon the petitioner was waved. Now the petitioner submits that the petitioner has received a letter from head School of Physics and Astronomy, USA for appointment as Post-Doctoral Research Associate in the School of Physics and Astronomy till the July 31, 2027. The petitioner submits that due to the criminal case initiated against the petitioner, the petitioner is not in position to proceed to abroad to pursue his higher study and to join his post as per the appointment letter dated February 24, 2025. Accordingly, an order is required from the Trial Court for permission to go to abroad.

4. Learned counsel for the petitioner draws attention of this Court to the office memorandum dated October 10, 2019 wherein the Central Government exempts citizens of India against whom proceeding in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the Court concern permitting them to depart from India from the operation of the provisions of Clause (f) of Sub-Section (2) of Section (6) of the said Act subject to the following conditions namely:

- (a) The passport to be issued to every such citizens shall be issued:

- “(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or*

(ii) *if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;*

(iii) *if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year;*

(iv) *if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.”*

5. Learned counsel for the petitioner submits that the petitioner intend to file an application before the Trial Court and if an application is filed by the petitioner, the Trial Court may be directed to dispose of the said application within a specific period.
6. Learned A.S.G.I. appearing on behalf of the Union of India submits that even if the permission is granted to proceed to abroad by the Trial Court, the petitioner has obtained a VISA from the immigration department as well as the concerned Embassy and if a criminal case has been initiated against the petitioner, there is no chance to grant any VISA to the petitioner to proceed to abroad.
7. This Court is not going into the dispute whether the petitioner will get the VISA or not. In the present writ application the petitioner only prayed for a direction if the petitioner filed any application before the learned Trial Court, the learned Trial Court can dispose of the said application within a specific period of time.

8. Accordingly, the writ petition is disposed of by granting leave to the petitioner to approach the learned Trial Court for grant of permission to proceed to abroad for joining his service/pursue his higher studies in terms of his appointment letter dated February 24, 2025. If any application is filed by the petitioner, the learned Trial Judge shall dispose of the said application after giving an opportunity of hearing to the State within a period of two weeks from the date of filing of the application by taking into consideration of memorandum dated 10.10.2019.
9. If such order is passed by the learned Trial Court, the petitioner shall be at liberty to approach the Passport Authority for extension of validity of passport.
10. Accordingly, WPA 25171 of 2025 is disposed of.
11. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)