

Australian Citizen of Indian origin. There was no material to indicate that the petitioner has any interest or plan to return to India in the near future. The co-accused who are the siblings of the petitioner have flouted the conditions in the orders subject to which they were granted permission to travel abroad. Therefore, the Trial Court was not inclined to permit the petitioner to travel abroad.

4. The material on record indicates that there is a chequered history to the litigation. The matter has reached this Court on multiple occasions, especially in regard to the rejection of the applications of the petitioner to travel to Australia.

5. By an order dated 9th September 2019, in Criminal Writ Petition No. 1584 of 2019, permission was granted to the petitioner to travel to Australia, subject to the conditions incorporated in Para no. 12 of the said order.

6. One of the reasons for the rejection of the instant application by the learned Magistrate appears to be non-compliance with the order passed by this Court in Criminal Writ Petition No. 1584 of 2019 on 23rd August 2024. In the said petition, a statement was made before the Court that, the petitioner would return to India as far as possible by

the end of October 2024. The petitioner did not comply with the said undertaking. Thereafter, by an order dated 20th February 2025, in Interim Application (ST) No. 21645 of 2015 in Criminal Writ Petition No. 1584 of 2019, the petitioner was granted permission to appear before the Trial Court on 5th May 2025.

7. The Court is informed that on 5th May 2025, the petitioner appeared before the Trial Court. The Court is also informed that, the charge has been framed in the month of July 2025, and the trial is now adjourned to 9th October 2025.

8. Since this Court has, in the past, given permission to the petitioner to travel abroad subject to stringent conditions, and those conditions still operate, and the indisputable fact that the petitioner is an Australian citizen, this Court is of the view that, the application of the petitioner to travel abroad is required to be considered in the light of her past conduct and situation in life.

9. Mr. Shah, the learned counsel for the respondent no. 2-first informant, submitted that the petitioner had not complied with the undertaking given to the Court that, she would return to India by October 2024. The first informant was required to take steps to secure

the presence of the petitioner at the trial. There is a genuine apprehension that, the petitioner may not be turn up for trial and even at the stage of recording her statement under Section 313 of Code of Criminal Procedure, 1973. Therefore, in the event, the petitioner is permitted to travel abroad, further stringent conditions be imposed, and the petitioner be put to terms that, she would return to India as and when directed by the learned Magistrate.

10. Having regard to the situation in life of the petitioner, the previous orders passed by this Court and, in the totality of the circumstances, this Court is persuaded to allow the petitioner to travel to Australia on the conditions which have already been imposed in the order dated 9th September 2019, in Criminal Writ Petition No. 1584 of 2019, and the following additional conditions:

- i) The absence of the petitioner shall not be urged as a ground to seek adjournment on any count whatsoever in the trial.
- ii) The identity of the petitioner shall not be disputed at the trial.
- iii) The petitioner shall appear in person before the learned Magistrate as and when directed by the learned Magistrate with atleast three weeks' advance notice.

iv) The petitioner shall, in any event, appear before the learned Magistrate for the purpose of her examination under Section 313 of Code of Criminal Code, 1973.

v) During the course of the trial, at any stage of the proceeding, if the learned Magistrate directs that the petitioner shall remain present before the Court through Video Conferencing, the petitioner shall participate in the trial through Video Conferencing.

vi) In addition to the security already furnished by the petitioner, the petitioner shall deposit a further amount of Rs.3 lakh before the learned Magistrate as and by way of an additional security.

vii) The petitioner shall file an undertaking before the learned Magistrate that, she would comply with all the aforesaid conditions within a period of three weeks from today.

Petition disposed.

(N.J. JAMADAR, J)