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Crl.O.P.No.20077 of 2025

N THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

Criminal Original Petition No.20077 of 2025

R.V.Ashok Kumar

... Petitioner

Vs.

The Deputy Director,
Directorate of Enforcement,
Ministry of Finance,
Chennai Zonal Office – I,
No.2, 5th and 6th floor,
BSNL Administrative Building,
Kushkumar Road, Nungambakkam,
Chennai – 600 034.

... Respondent

PRAYER: Criminal Original Petition filed under Article 528 of BNSS to call for the records pertaining the order dated 09.07.2025 passed by the learned Principal Sessions Judge, Chennai in Crl.M.P.No.3 of 2025 in C.C.No.9 of 2023 on the file of the Principal Sessions Court, Chennai and to set aside the same.

For Petitioner : Mr.John Sathyan, Senior Counsel,
for Mr.S.Senthil

Respondent : Mr.Rajnish Pathiyil,
Special Public Prosecutor

ORDER

*(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)*

The petitioner has invoked the jurisdiction of this court under



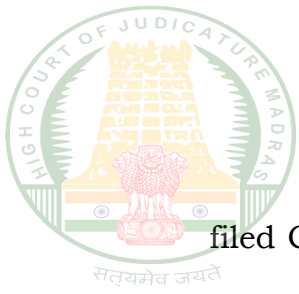
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Section 528 of the BNSS challenging the order passed by the learned Principal Sessions Judge, Chennai in Crl.M.P.No.3 of 2025 in C.C.No.9 of 2023 dated 09.07.2025.

2. C.C.No.9 of 2023 had been initiated against the petitioner's brother, one Thiru.Senthil Balaji, a former Minister in the Government of Tamil Nadu. In C.C.No.9 of 2023, a supplementary complaint was filed by the respondent. The petitioner and a few others were arrayed as accused in that complaint.

3. Taking the supplementary complaint on file, the learned Principal Sessions Judge issued summons to the petitioner to appear on 09.04.2025. On appearance as directed by the Court, the petitioner furnished two sureties for a sum of Rs.2,00,000/- to the satisfaction of the Trial Court. The petitioner states that he has been presenting himself before the Trial Court and when not possible, he has filed applications under Section 355 of BNSS seeking exemption of his personal appearance. The court has also accepted the petitions and granted exemption. The case is now posted for opening of the prosecution by the respondent.

4. Alleging that he has been suffering from Cardiovascular issues and undergoing treatment from 2021 onwards, the petitioner



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filed Crl.M.P.No.3 of 2025 seeking permission to travel abroad to take medical treatment. He pleaded that, considering his age, he requires advanced cardiac treatment to increase his longevity and that this treatment is available only in the United States of America. He added that in case he takes the said treatment, it will regularise the blood flow to his heart. Due to the progression of his coronary artery disease, the petitioner's health has been significantly impacted.

5. The reason for seeking permission of the court is on account of the fact that the respondent had issued a Look Out Circular (hereinafter referred to as "LOC"), thereby preventing the petitioner from travelling abroad. He gave a representation to the respondent on 02.06.2025 and sought for permission. As the same had not been considered positively and since in terms of Section 6(2)(f) of the Passports Act, a permission is necessary, he filed the said petition.

6. The learned Principal Sessions Judge received the application in Crl.M.P.No.3 of 2025 and directed the respondent to file counter.

7. The respondent filed a detailed counter setting forth the role of the petitioner in the job racket, which is alleged to have been carried out with the blessings of Thiru. V.Senthil Balaji. They further pointed out that the petitioner had not cooperated with the



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investigating agency. Initially, he gave letters seeking adjournment, citing his health condition and thereafter, he kept away from the investigating agency. They also pointed out that the travel itinerary had not been furnished by the petitioner and he had also failed to mention the name, State, City or location of the hospital, where the treatment was scheduled to be undertaken.

8. The respondent pleaded that the applicant had come up with the application only in order to frustrate the purpose and object of the LOC. They relied upon the judgment of a Division Bench of the Bombay High Court in **Chaitya Shah v. The Union of India & Others** in Criminal Writ Petition No.3058 of 2021, in order to press home his point. Consequently, it sought for dismissal of the petition.

9. After hearing both sides, the learned Trial Judge agreed with the prosecuting agency and dismissed the petition. Hence, this Original Petition before us.

10. We heard Mr.R.John Sathyan for Mr.S.Senthil and Mr.Rajnish Pathiyil, learned Special Public Prosecutor for ED cases for the respective parties.

11. Taking note of the order passed by the learned Trial Judge,



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we directed the petitioner on 22.07.2025 and 29.07.2025, to produce the itinerary touching upon the probable date of the medical treatment, and the dates of departure and return. The petitioner was also called upon to produce his contact details, his proposed place of stay in Arizona, USA, and the contact details of the person accompanying him. We also directed him to produce the medical recommendation for the procedure that he seeks to undergo at Mayo Clinic, Arizona, USA.

12. In compliance with the aforesaid directions, the petitioner filed an affidavit on 27.07.2025 giving the following itinerary:

(i) Date of Departure : 30.08.2025

(ii) Name of the Departure

Airport : Chennai International Airport

(iii) Date of Arrival : 02.09.2025

(iv) Name of the Arrival

Airport : Los Angeles International

Airport

(v) Place of Stay in USA : Residence Inn Phoenix Desert

view at Mayo Clinic at Arizona

(vi) Date of visit at Hospital : 1st Week of September 2025,

Mayo Clinic, Arizona, USA

(vii) Date of Departure



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(Return) : 20.09.2025

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(viii) Name of the Departure

Airport (USA) : San Francisco

International

Airport

(ix) Date of Arrival (India) : 22.09.2025

(x) Name of the Arrival

Airport (India) : Chennai International Airport

(xi) Name & Contact details of the accompanying person:

a. Nirmala – Wife, Mobile No.+91 9042894569

b. Kanishka – Daughter

(xii) Contact Details of R.V.Ashok Kumar:

Mobile No.+91 9442253536

13. Similarly, he produced a certificate issued by Dr.Palani Kannan, MBBS., MD(GM), DrNB(Cardio)., C.Diab, Consultant Interventional Cadiologist, Apollo Spectra Hospital, R.A.Puram, Chennai – 600 028. In addition to this certification, he has also produced the appointment schedule and instructions from the Mayo Clinic, Phoenix, Arizona, USA.

14. The issue presented before us is whether the petitioner should be permitted to go abroad for his medical treatment or not.

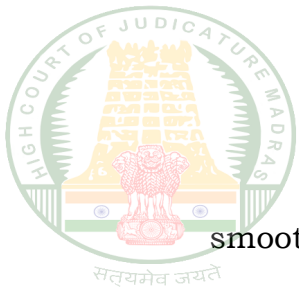


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15. The Constitution of India grants a person the right to travel abroad. This right is obviously circumscribed by the procedure established under law. By virtue of an office memorandum issued by the Ministry of Home Affairs, Union of India, the concept of LOC came into being. This LOC has not only been a bar for persons against whom it has been issued to travel abroad, but has resulted in explosion of litigation by persons against whom it has been issued. They have been regularly knocking the doors of the trial court, as well as the High Court seeking permission. The case on hand is one such.

16. The reason, why the respondent is objecting for permitting the petitioner to travel abroad, is to ensure that the petitioner participates in the criminal proceedings. One cannot find fault with this avowed intention. However, the demand of the prosecuting agency must be balanced with the right to travel of a person. The petitioner is only an accused. He is not a convict. Only the convict loses his freedom of movement.

17. By enforcing the LOC, the petitioner is forced to stay within the four corners of this Country. Theoretically, it is possible that despite staying inside this country, the petitioner can keep away from participating in the trial. Hence, the mere fact that there is a LOC, does not assure that the petitioner is going to cooperate with the



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smooth progress of the case.

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18. Mr.Rajnish Pathiyil submitted that the petitioner can take treatment in India itself and there is no necessity for him to travel abroad.

19. While the prosecuting agency has been vested with vast powers, it certainly does not extend to dictating as to how, and in what manner a citizen, nay, a person wishes to take his or her treatment. The best judge for a person, to decide where to take a treatment to cure his ailment, is the person himself. The respondent does not possess the requisite medical knowledge to dictate the terms as to whether a treatment in India or treatment abroad would be correct for the petitioner's ailment. It is also in the interest of prosecuting agency that the petitioner is restored to the pink of his health, so that he may stand trial.

20. With respect to the judgment in ***Chaitya Shah v. The Union of India & Others*** in Criminal Writ Petition No.3058 of 2021, we have to point out that the view taken by the Bombay High Court on 17.11.2021 has undergone a change. In ***Chaitya Shah v. The Union of India & Others***, Criminal Interim Application No.2203 of 2023 in Criminal Writ Petition No.940 of 2023, the Division Bench of



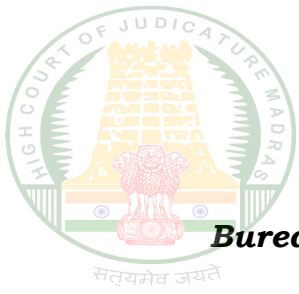
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the very same High Court permitted the writ petitioner to travel abroad to restart his business. That being the position, the said judgment does not assist the respondent.

21. We hasten to add that the respondent certainly has the legal standing to request for such conditions to be imposed to enable the petitioner to return to this country, once the treatment is over. In fact, if the petitioner wants to go abroad on a holiday, or say, a tour, the prosecuting agency cannot have any say, than demanding conditions to ensure that he returns to this country.

22. The certificate, issued by a premium institution like the Apollo Hospitals, convinces us that the petitioner should be entitled to explore the specialised treatment that is rendered at Mayo Clinic, Arizona, USA. We would not have permitted the petitioner to produce the materials before us to substantiate his plea for travel, when the same had not been placed before the Trial Court, if not for medical condition under which he is said to be suffering.

23. An accused, who is sick, would not be in a position to participate in the trial and that is certainly not in the interest of the petitioner or the respondent. The law on this point has been analysed in detail by two judgments of this Court in ***Pathan Apser Hussen v.***



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Bureau of Immigration and two others in W.P.No.27686 and 28518 of 2024 dated 06.12.2024, and in **C.Sivasankaran v. Foreigner Regional Registration Officer and eight others** in W.P.No.27856 of 2024 dated 21.12.2024. The learned Single Judge in those two cases had analysed the law covering the entire breadth of this Country, starting from Bombay High Court and completing his jurisprudential journey with the Supreme Court. We agree with the verdicts laid down by the learned Judge.

24. Taking into consideration the overall circumstances and the memo filed by the respondent today, this Petition is allowed on the following conditions:

(i) The petitioner shall file an undertaking affidavit before the Trial Court to return to India as per the itinerary annexed to the affidavit filed before this Court. The name of his daughter shown as an accompanying person should be deleted;

(ii) The petitioner shall execute a personal bond of for Rs.50,00,000/- (Rupees Fifty Lakhs Only) with two solvent sureties to the satisfaction of the Trial Court;

(iii) The petitioner shall furnish a Fixed Deposit Receipt (FDR) for Rs.5,00,000/- (Rupees Five Lakhs Only), which shall be held in custody of this Court and released only upon his return and compliance with all conditions;



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(iv) Travel shall be strictly permitted for a limited period, in accordance with the itinerary that has been submitted;

(v) The travel shall be restricted exclusively for the purpose of medical consultation/treatment at Mayo Clinic, Arizona, USA, and not for any other purposes;

(vi) The petitioner shall file an affidavit of undertaking not to seek asylum, refugee protection, etc., or any extension of stay in the USA or elsewhere on any grounds whatsoever;

(vii) The petitioner shall not alter his flight itinerary, place of stay, treating hospital, or travel schedule without the prior permission of this Court;

(viii) The LOC shall be kept in abeyance from 29.08.2025 to 23.09.2025, and shall be revived automatically on 24.09.2025;

(ix) The Petitioner shall notify, and e-mail scanned copies of his immigration stamps, boarding passes, and travel documents (including transit entries) to the Investigating Officer, both at the time of departure and on his return;

(x) The petitioner shall register his presence with the nearest Indian Consulate or Embassy in the USA;

(xi) The petitioner shall appear before the Trial Court within 48 hours of return or on the next hearing date immediately after his return;

(xii) During his absence, if the hearing takes place before the



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Trial Court, the petitioner shall be represented by a counsel who shall file an appropriate application seeking leave of absence under Section 355 of BNSS;

(xiii) The petitioner shall deposit the original passport of his daughter before leaving India. He shall take return of the same on his return by filing an appropriate application;

(xiv) The petitioner shall provide all relevant contact details, including mobile numbers, e-mail addresses, and address of his stay abroad to the Investigating Officer, and to the Trial Court for the duration of travel and stay abroad.

(M.S.R, J.) (V.L.N, J.)
08.08.2025

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation : Yes/No



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To

The Deputy Director,
Directorate of Enforcement,
Ministry of Finance,
Chennai Zonal Office – I,
No.2, 5th and 6th floor,
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Chennai – 600 034.



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**M.S. RAMESH, J.
and
V.LAKSHMINARAYANAN, J.**

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