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Crl.M.P. No.20743 of 2025 in Crl.O.P. No.4373 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P. No.20743 of 2025
in
Crl.O.P. No.4373 of 2015

V. Gowthaman

Petitioner

vs.

The State by
Deputy Superintendent of Police
CBI, STF
New Delhi

Respondent

Petition filed under Section 528 of the BNSS, 2023, to modify the condition in paragraph 41 (v) imposed on the petitioner *vide* order dated 02.03.2015 in Crl.O.P. No.4371 of 2015, to surrender his passport and permit the petitioner to get back his passport from the custody of the Special Court – II for trial of criminal cases related to elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu at Chennai.

For petitioner Mr. A. Ramesh
 Sr. Counsel
 for Ms. M. Sneha

For respondent Mr. N. Baaskaran
 Special Public Prosecutor (CBI Cases)

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ORDER

This criminal miscellaneous petition has been filed to modify the condition in paragraph 41(v) imposed on the petitioner *vide* order dated 02.03.2015 in Crl.O.P. No.4371 of 2015 to surrender his passport, and permit him to get back his passport from the custody of the Special Court – II for trial of criminal cases related to elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu at Chennai.

2. The petitioner's case in a nutshell reads thus:

2.1 The petitioner was arrested on 21.01.2015 and remanded to judicial custody on 22.01.2015 by the Principal Court for CBI Cases, Chennai for the alleged offences under Sections 120-B read with 409 and 420 IPC and Section 13(2) read with 13(1)(c) and 13 (1)(d) of the Prevention of Corruption Act, 1988, in Cr.No.RC/DST/2013/A/0019/CBI/ST/DLI.

2.2. He was released on bail by this Court on 02.03.2015 in Crl.O.P. No.4373 of 2015 and one of the conditions for his release on bail is that he shall surrender his passport and if he is not having the same, he shall file an affidavit to that effect before the Principal Special Judge, CBI Court, Chennai.



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2.3 In compliance of the same, the petitioner executed a bond before the Principal Special Judge, CBI Court, Chennai and surrendered his passport on 04.03.2015 and he was released on bail on the same day.

2.4 Subsequently, the respondent completed the investigation and filed a final report and the case is now pending trial in C.C.No.10 of 2019 on the file of the Special Court II for trial of criminal cases relating to elected members of Parliament and Members of Legislative Assembly of Tamil Nadu at Chennai (for short "the Trial Court").

2.5 The petitioner fully cooperated in the trial and the prosecution witnesses were cross-examined by him on the very same day they were examined in chief without he seeking adjournment.

2.6 The petitioner had earlier filed Crl.M.P. No.2198 of 2023 for renewal of passport. On the direction of this Court, the passport was returned to the petitioner and after renewal, he surrendered the passport to the Trial Court. For the past ten years, since his passport has been in the custody of the Trial Court, he is unable to travel abroad and he has also not been able to climb the ladder in his career front and hence, the present petition.



3. The respondent has filed a counter affidavit.

4. Mr. A. Ramesh, learned Senior Counsel appearing for the petitioner, submitted that since the petitioner's passport has been in the custody of the Trial Court, the petitioner's right to travel abroad has been curtailed which is in violation of Article 21 of the Constitution of India. Relying on the judgment of the Supreme Court in **Suresh Nanda vs. CBI (2008) 1 SCR 1212**, learned Senior Counsel contended that a passport can be impounded only under Section 10 of the Passports Act and the Trial Court holding the passport is sans any basis and hence, the Trial Court may be directed to return the petitioner's passport.

5. Mr. N. Baaskaran, learned Special Public Prosecutor for CBI Cases, contended that the petitioner's passport has been only deposited, that too, only in compliance of a condition imposed by this Court while bail was granted and it has not been impounded and hence, the judgment of the Supreme Court in **Suresh Nanda, supra**, cannot be applied to this case. That apart, according to him, since the trial is at its fag end, the presence of the petitioner is very much essential for answering under Section 313 Cr.P.C. His further submission is that the petitioner has given neither the reason for his travel abroad nor given his itinerary and in the



event of his passport being returned, there is every possibility of the petitioner fleeing away and not returning to India. However, it is his fair submission that the Trial Court has permitted the co-accused to travel abroad.

6. In reply, Mr. A. Ramesh, learned Senior Counsel, submitted that as on date, some other accused, including the petitioner, have filed an application for recall of witnesses and production of certain documents and hence, there is no possibility of questioning the petitioner under Section 313 Cr.P.C. in the near future. It is his further submission that the petitioner has never been responsible for the delay in completion of the trial and the petitioner undertakes that he will be duly represented by a counsel on all hearing dates and whenever his presence is insisted by the Trial Court, he will appear before the Trial Court.

7. As per Article 21 of the Constitution of India, no person can be deprived of his right to travel, except according to the procedure established by law. It is stated that the petitioner has been cooperating in the trial and has also not taken any adjournment and he has been appearing before the Trial Court on all dates. In such view of the matter, the petitioner cannot be deprived of his right to travel abroad and of course, such a right should be subject to certain conditions.



8. Accordingly, the petitioner's passport shall be returned subject to the following conditions:

The petitioner shall file an affidavit of undertaking before the Trial Court well in advance before leaving the country, along with his affidavit stating the reason for his travel abroad, the period of visit, place of visit and his date of return to India, *etc.*, along with his address, mobile number and other details of the country to which he is travelling, including the itinerary, before the Trial Court. He shall also ensure that he will be duly represented by a counsel and he shall appear before the Trial Court on the dates whenever the Trial Court insists for his presence for the progress of trial.

9. It is made clear that when any application (along with necessary details) is made before the Trial Court seeking permission to travel abroad, the same shall be disposed of by the Trial Court within three days.



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10. This criminal miscellaneous petition stands ordered on the above terms.

12.11.2025

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To

1. The Deputy Superintendent of Police
CBI, STF
New Delhi
2. The Special Judge II for trial of criminal cases relating to
elected members of Parliament and Members
of Legislative Assembly of Tamil Nadu
Chennai
3. The Public Prosecutor
Madras High Court
Chennai 600 104



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A.D.JAGADISH CHANDIRA, J.

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