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

+ CRL.M.C. 7184/2023

TASNEEM MULLA SHABBIR BHAI MOAIYADI.....Petitioner

Through: Mr. Sameer Chandra and Mr.
Shubham Parashar, Advs.

versus

AIR CUSTOMS

.....Respondent

Through: Mr. Atul Tripathi, SSC and Mr.
Shubham Mishra, Advs.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **19.05.2025**

1. This hearing has been done through hybrid mode.
2. The present petition under Section 482 read with Section 439(1)(b) of the Cr.P.C. seeks the following prayers:

“a) Modify the condition of bail order dated 16.12.2016 passed by Shri Sumit Dass, the then Chief Metropolitan Magistrate , Patiala House Courts, New Delhi, in case having title as Customs Vs Muffazal Yahya Bhai And Ors; under section 132, 135 (1) (a) and 135 (1) (b) of the customs act, 1962, to the effect that the condition of bail that the petitioner will not leave the country without prior permission of the court be deleted and the petitioner may kindly be allowed to retain her passport, in the interest of justice; OR
b) Call for such records as may be due for the appropriate appreciation of the case;
c) Pass such other and further orders which this Hon'ble Court may deem fit in the facts and circumstances of the case and in the interest of justice and in favor of the Petitioner.”

3. Learned counsel for the petitioner submits that the latter along with one other accused person was granted bail by the learned ACMM, Patiala House

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Courts *vide* order dated 16.12.2016 in Complaint Case No. VIII (AP) 10/P&I/1551-B/Arrival/2016, under Sections 132/135(1)(a) and 135(1)(b) of the Customs Act, 1962, filed by the respondent/department against the petitioner and her husband. It is further submitted that the petitioner was granted permission to travel abroad several times by the learned ACMM on account of the fact that the daughter of the petitioner is still residing in Dubai and they have a running business there. Attention of this Court has been drawn towards orders dated 28.01.2017; 02.03.2017; 07.09.2017; 25.09.2018; 26.09.2019; 19.09.2020; 16.10.2021; 21.03.2022; 04.03.2023; 05.09.2023 to show that the petitioner was allowed to travel abroad on certain conditions from time to time and she has not misused the liberty granted to her.

4. It is further submitted that an affidavit dated 18.03.2025 by the husband of the petitioner has also been placed on record stating that he will not be seeking similar reliefs which have been sought by the present petitioner, his wife, if the present petition is allowed. It is further the case of the petitioner that, in case, she is permitted to retain her passport, she will be giving prior intimation along with itinerary of her visits whenever, she will be travelling outside the country.

5. *Per contra*, the learned SSC for the respondent/department submits that allegations made against the present petitioner and other co-accused persons in the aforesaid Complaint Case are serious in nature and there is every probability of the petitioner evading the trial and indulging in the prejudicial activities.

6. Heard learned counsel for the parties and perused the record.

7. It is a matter of record that the present petitioner was granted bail by learned CMM *vide* order dated 16.12.2016. The petitioner was granted

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permission to travel to Dubai first time on 28.01.2017 by learned CMM and thereafter, on several occasions in pursuance of orders passed by learned CMM as pointed out hereinabove. Nothing has come on record to show that the petitioner had misused the concession granted to her by learned CMM *vide* the aforesaid orders. It has also been verified that the daughter of the petitioner is currently residing in Dubai. The complaint case is stated to be pending at the stage of pre-charge evidence. The case relates to 2016, nothing adverse has been shown with regard to the conduct of the petitioner.

8. An affidavit dated 18.03.2025 of Muffazal Yahya Bhai, husband of the petitioner, has also been placed on record stating that he will not be seeking similar reliefs which have been sought by the present petitioner, his wife, if the present petition is allowed.

9. In the totality of facts and circumstances of the present case, the present petition is allowed. The condition for seeking permission to leave the country from the learned Trial Court in order dated 16.12.2016 is hereby waived, subject to the petitioner furnishing an FDR of Rs.1,00,000/- before the learned Trial Court and also informing the learned Trial Court prior to leaving the country by providing details of travel and itinerary. It is further directed that she may be allowed to retain her passport.

10. Petition is allowed and disposed of.

11. Pending application(s), if any, are also disposed of.

12. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

MAY 19, 2025/kr/sc

[Click here to check corrigendum, if any](#)

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