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Crl.M.P.No.5218 of 2026



Crl.O.P.No.656 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2026

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THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.M.P.No.5218 of 2026

in

Crl.O.P.No.656 of 2026

Uma Maheswari

... Petitioner

Vs.

Union of India,
Rep.by the Superintendent of Customs,
RSI-Air, New Custom House,
Meenambakkam, Chennai – 600027.
RR 40/2021

... Respondent

PRAYER : Criminal Miscellaneous Petition filed under Section 528 of BNSS.,
to modify the condition imposed in para No.8 (c) in Crl.O.P.No.656 of 2026
dated 11.02.2026 on the file of this Court.

For Petitioner : Mr.M.G.Martin Manivannan

For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor
for Central Government



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ORDER

The present Criminal Miscellaneous Petition has been filed seeking modification of one of the conditions imposed while granting bail to the petitioner by order dated 11.02.2026, whereby this Court, apart from imposing other conditions, directed the petitioner to surrender her passport before the concerned Trial Court.

2. It is the contention of the learned counsel for the petitioner that, at the time of her arrest, the respondent authorities had seized the petitioner's passport. The learned counsel for the petitioner would further submit that the respondent had taken the passport during the course of search and seizure and that the said fact could be inferred from the complaint filed under Section 36 of the NDPS Act, wherein there is a reference that the petitioner was identified through her Passport No.U2971217, dated 18.11.2020.

3. Per contra, the said contention was stoutly opposed by the learned Special Public Prosecutor appearing for the respondent, and would contend that even according to the complaint, what was stated is only the identification of the petitioner and not about the seizure of passport. Therefore, he would submit that



the contention of the learned counsel for the petitioner that the passport is in the custody of the respondent is erroneous and liable to be rejected. He would further submit that at no point of time, the passport of the petitioner was seized, which fact is also evident from the very document relied upon by the petitioner. Hence, he prayed for dismissal of the present petition.

4. I have given my anxious consideration to either side submissions.

5. It is not in dispute that the petitioner was granted bail by this Court as early as on 11.02.2026, and that she could not come out of prison only on account of her inability to comply with the condition requiring surrender of her passport. The contention of the learned counsel for the petitioner is that the passport was seized by the respondent, whereas the respondent would state that no such seizure had taken place. But the fact remains is that the petitioner has been under incarceration since 18.12.2021, and she could not avail the benefit of bail for her inability to deposit her passport.

6. At this juncture, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court *In Re Policy Strategy for Grant of Bail in S.M.W.P. (Criminal) No.4 of 2021*, wherein certain guidelines were



issued with regard to the execution of bail orders. In the said judgment, it has been observed that where bail bonds are not furnished within one month from the date of grant of bail, the concerned Court may *suo motu* take up the matter and consider whether the conditions of bail require modification or relaxation.

7. The learned counsel for the petitioner further relied upon the judgment of the Hon'ble Supreme Court in ***Frank Vitus Vs. Narcotics Control Bureau***, reported in **(2024) 8 SCC 415**, wherein it was held that the imposition of onerous conditions in NDPS matters would amount to denial of bail. In the above case, the Hon'ble Supreme Court considered the condition requiring foreign nationals to submit a No Objection Certificate from the concerned Embassy / High Commission assuring that the individual would not leave the country is onerous.

8. The learned counsel for the petitioner also relied upon the judgment of the Punjab and Haryana High Court in ***Ram Lubhaya and others Vs. State of Punjab and another***, reported in **2025 NCPHHC 176471**, and submitted that the conditions imposed upon an accused must be circumscribed by the doctrine of proportionality and reasonableness. He also relied upon the judgment of the Hon'ble Supreme Court in ***Sumit Mehta Vs. State of N.C.T. of Delhi***, reported



in *(2013) 15 SCC 570*, wherein it was held that the words “any condition” used in the relevant provision should not be regarded as conferring absolute power on a Court of law to impose any condition whatsoever. But such condition should only be a reasonable, acceptable in the facts of the case, permissible in law, and effective in a pragmatic sense, and should not defeat the very order granting bail.

9. In the case in hand, the petitioner has now come forward with the specific submission that her passport was seized by the respondent at the time of arrest. But admittedly, there are no records to substantiate the same. No doubt, in the document relied upon by the learned counsel for the petitioner, there is no express reference to the seizure of the passport. But this Court must also have practical approach in appreciating the fact of sequence of events generally faced by the accused. Here, this petitioner’s identity was confirmed through her passport. Therefore, at the time of arrest, the respondent had seen the passport, and had dealt with the same. In such scenario, as rightly contended by the petitioner, the apprehension against the respondent cannot be abruptly ruled out.

10. In such circumstances, at this juncture, it would be too difficult for the petitioner to ascertain its whereabouts. Therefore, this Court is of the view that,



in order to achieve the object of such condition, a different modality may be evolved so as to give effect to the intention behind the imposition of such condition, and the same can also be achieved by alternative means, namely, by directing the respondent/customs authorities to take appropriate steps for issuance of a Look Out Notice against the petitioner, by following the due procedure.

11. In view of the above discussion, the condition imposed in paragraph 8(c) in Crl.O.P.No.656 of 2026 dated 11.02.2026 is relaxed, with a direction to the respondent to take appropriate action before the appropriate authority to issue Lookout Notice against the petitioner. Accordingly, this Criminal Miscellaneous Petition is ordered.

09.04.2026

kv

Index : Yes

Speaking order

Neutral Citation : Yes



To:

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1. The Superintendent of Customs,
Union of India,
RSI-Air, New Custom House,
Meenambakkam, Chennai – 600027.
2. The Public Prosecutor, High Court of Madras.

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C.KUMARAPPAN, J.

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