



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 22nd OF JUNE, 2026

MISC. CRIMINAL CASE No. 24830 of 2026

GAURAV AHLAWAT

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri R.S.Chhabra, learned senior counsel with Shri Aman Arora, learned counsel for the petitioner.

Shri Hemant Sharma, learned Government Advocate for the respondent/State.
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ORDER

The present petition has been filed under Section 528 of BNSS being aggrieved by the order dated 22.05.2026 passed by the trial court whereby the application filed by the present petitioner for permission to travel abroad was rejected.

2. The petitioner is a citizen of Russia. The case of the petitioner is that he is arrayed as an accused in relation to FIR bearing Crime No.1331/2024 for the offences purportedly committed under Sections 316(5), 318(4) and 61(2) of BNS, 2023. The petitioner in relation to the said FIR filed a bail application which was rejected up to this court, he ultimately approached the Hon'ble Apex Court. Initially, Hon'ble the Apex Court granted interim protection vide order dated 26.09.2025 and ultimately vide



order dated 23.01.2026, the petitioner was granted anticipatory bail. The Hon'ble Apex Court while granting anticipatory bail to the petitioner has put certain conditions, relevant conditions for the purposes of the present case are contained in para 8 and 10, which provide as under:-

"8. Further, the appellant, who is a foreign national, shall immediately appear before the Trial Court and surrender his passport before the Trial Court and continue to cooperate with the investigation/trial. The Trial Court shall accept the appellant's bail bond and such sureties which are deemed to be solvent, securing the appellant's presence as and when required either during investigation or trial. Also, it shall be open for the Trial Court to impose such conditions as may be deemed fit and proper under the facts and circumstances.

9.

10. We grant further liberty to the appellant to seek modification of the conditions of Bail before the Trial Court should he require to travel abroad and the Trial Court shall consider the same on such terms as may be deemed fit and necessary."

3. The petitioner in compliance of the order passed by the Hon'ble Apex Court dated 23.01.2026 appeared before the investigating officer on 30.01.2026 and since then he is cooperating with the investigation. The petitioner appeared before the trial court on 3rd February, 2026 in compliance of the directions given by the Hon'ble Apex Court for furnishing petitioner's bail bond and also for surrendering his passport and accordingly,



proceedings were recorded by the trial court.

4. However, the son of the petitioner suffers from *Residual Organic Damage, Hypertensive - Hydrocephalic Syndrome in the subcompensation stage, Mental Retardation and Minimal Cerebral dysfunction* from his childhood and is permanently disabled child. The wife of the petitioner and his aforesaid son are living in Russia, there is no one to take care of them. The son of the petitioner is in extreme need of treatment, in such circumstances, the petitioner filed an application for permission to travel abroad. The trial court after considering the documents regarding treatment of son of the present petitioner permitted him to travel abroad vide order dated 27.04.2026 thereby certain conditions were imposed for travelling abroad. The petitioner accordingly travelled abroad and in compliance of the directions of the trial court surrendered his passport on 11.05.2026.

5. The petitioner subsequently filed another application for the reason of aggravation in the medical condition of the petitioner's son where he was diagnosed with certain medical conditions and it was required that he be treated at outstation for the period beginning from 25.06.2026 to 10.08.2026. Thus, an application was preferred before the trial court for granting permission to travel abroad for such period. The said application has been rejected by the trial court vide order dated 22.05.2026 (Annexure A-9). The trial court while rejecting the application has considered the fact that the son of the present petitioner is suffering from the cited illness since his birth, thus, the court taking into account the objection submitted by the concerned investigating officer rejected the application. Thus being aggrieved, present



petition came to be filed for permission to travel abroad for the treatment of the son of the petitioner.

6. Learned counsel for the petitioner while criticizing the order of the trial court submits that the trial court did not advert to the reasons assigned by the petitioner for permission to travel abroad and simply by observing that the son of the petitioner suffers from the said illness since his childhood has rejected the application, in fact, this could not have been a reason for rejection of the application of the petitioner. He submits that the documents regarding treatment of the petitioner's son were placed on record before the trial court, however, the trial court without discarding any of the said documents and without even dealing with the same on merits has simply observed that as the son of the petitioner suffers from the illness since birth has rejected the application. Once the court has not discarded the reasons cited by the petitioner the application could not have been rejected, as the right to travel abroad is a fundamental right under Article 21 of the Constitution of India. He thus submits that the impugned order suffers from material illegality inasmuch as the trial court has failed to exercise its jurisdiction in accordance with law.

7. Per contra, learned counsel for the State opposes the prayer and submits that if the petitioner is permitted to travel abroad then he may misuse this permission and in case, he flees away then it will be very difficult to bring him back to face the trial before the court of law in the country, thus, the trial court has correctly rejected the application.

8. Considered the rival submissions and perused the case-file.



9. In the considered view of this Court, the rejection merely for the reason that the son of the petitioner is suffering from the illness since childhood cannot be sustained. The directions of the Hon'ble Apex Court while granting bail to the applicant as contained in para 10 of the order are very clear, the trial court can permit the petitioner to travel abroad in its discretion considering the facts and circumstances of the case. A perusal of the documents filed regarding treatment of the son of the petitioner will show that "LLC Reatsentr Samara" Children's Department of Neurology and Reflexology its letter termed as 'referral for rehabilitation' dated 05.05.2026 has set out the outline of the treatment and the duration from 25.06.2026 to 10.08.2026. The trial court nowhere has stated in the impugned order that this document is not genuine nor it has considered that the illness of the son of the petitioner reported is falsely claimed.

10. The trial court, earlier had granted the permission to the petitioner to travel abroad for the treatment of his son for the very same illness. The petitioner had availed the said permission and then duly returned and again surrendered his passport to the trial court, as such on the first occasion he did not misused this permission. It has been stated by the petitioner that his ailing father is living in India and petitioner is the only person to take care of him. It has also been stated that recently the petitioner has started a new business by making huge investments in Indore, the details of which are given in the petition. Thus, the petitioner has demonstrated that there are no chances of the petitioner of fleeing away from the trial. It has also been stated that the wife of the petitioner which his ailing son is living in Russia and there is no



one to take care of them, thus the petitioner is required to urgently go and arrange for the treatment of his son.

11. The trial court, while passing the impugned order has not considered any of these aspects and merely by observing that the illness as mentioned by the petitioner is since the childhood of his son rejected his application. The petitioner demonstrated that he wish to visit abroad for the treatment of his son, thus there are two aspects which are involved in the present matter, first the right to travel abroad, and the second to tend to the ailing son of the petitioner, both these aspects can be said to be facets of right to live with freedom as guaranteed by our Constitution in Article 21, which provides as under:

21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.

12. The Hon'ble Apex Court in the cases of **Satwant Singh Sawhney Vs. D. Ramarathnam, Assistant Passport Officer, AIR 1967 SC 1836** and **Menka Gandhi Vs. Union of India, 1978 AIR 597** has already considered these aspect. As such, this valuable right cannot be denied in such a casual manner.

13. The petitioner did not misuse the permission granted on the first occasion.

14. In view of the above facts and the law, this Court is inclined to allow this petition by setting aside the order passed by the trial court. Consequently, the petition is allowed. The order dated 22.05.2026 is hereby set aside and the application filed by the petitioner to travel abroad is



allowed. The petitioner is permitted to travel abroad for a period beginning from 23.06.2026 and ending on 16.08.2026. As such, passport of the petitioner be provided to him for travelling abroad for treatment of his son for the period mentioned above.

15. It is hereby made clear that all the conditions which were imposed by the trial court vide order dated 27.04.2026 while granting permission to travel abroad on earlier occasion shall apply on this occasion also. The petitioner shall report before the trial court by surrendering his passport between the period from 17.08.2026 to 18.08.2026.

(PAVAN KUMAR DWIVEDI)
JUDGE

N.R.