



\$~

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

%

***Reserved on: 07.08.2023
Pronounced on: 09.08.2023***+ **CRL.M.C. 5143/2023**

PARVIN JUNEJA

..... Petitioner

Through: Ms. Pooja Mehra Seigal, Mr. Shubham Paliwal, Mr. Varun Garg and Mr. Harsh Pandya, Advocates

versus

DIRECTORATE OF ENFORCEMENT

& ANR.

..... Respondents

Through: Mr. Ravi Prakash, CGSC with Mr. Farman Ali, Ms. Astu Khandelwal, Mr. Aman Rewaria, Mr. Yasharth Shukla and Ms. Usha Jamwal, Advocates

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed on behalf of petitioner seeking setting aside and modification of impugned order dated 20.07.2023 passed by learned Special Judge (PC Act) CBI-11, Rouse Avenue District Court, New Delhi and for grant permission to the petitioner to travel



abroad i.e. Canada, Norway and London from 26.08.2023 to 19.09.2023 for admission process of petitioner's son and for leisure and business travel.

2. Before this Court, the learned counsel for the petitioner stated that the petitioner has been granted permission to travel abroad at least 18 times in past by this Court as well as by the learned Trial Court and he has never misused the liberty so granted. It is also stated that the petitioner wants to go abroad for the purpose of admission of his son in the Schulich School of Business, York University as also for the purpose of business and vacation. It is stated that admission of the petitioner's son is to start from 05.09.2023.

3. The learned Trial Court was pleased to dismiss the application of the petitioner on the ground that he had failed to produce any document to show that his presence is required for admission of his son in York University and that he had also failed to provide any itinerary with regard to his staying in Canada, Norway and London. The learned Trial Court had also observed that in the past, the petitioner's application to travel abroad in connection with admission of his son in the college was also dismissed as he had filed forged documents in support of his contention. It was also observed that his passport was released for the purpose of renewal, however, the same was not surrendered in time in the Court after renewal. In the reply filed on behalf of respondent, it has been stated that learned Trial Court has rightly dismissed the application on these grounds.

4. Learned counsel for the petitioner has, on the other hand, stated that the passport was directed to be released for renewal to the



present petitioner since he had to procure Canadian Visa and Schengen Visa and since the renewal and procuring of the visas had taken substantial time, therefore it was held that he had not deposited the passport after renewal. It is stated that after obtaining the visas, he had surrendered the passport in the Court and that during the period for grant of Visa, his passport was lying with the concerned authorities. It is also stated as far as providing details of itinerary is concerned, the petitioner had sought time to file the itinerary before the learned Trial Court. As far as the ground that petitioner had forged travel documents on a prior occasion is concerned, it is stated that this Court had permitted him to travel abroad thereafter. It is also stated that he has never violated any condition or direction of the Court when he was granted permission to travel abroad. It is now stated that he has travelled abroad on several occasions in past with the leave of the Court and therefore, he be allowed to travel to different countries for the purpose of business, vacation as well as admission purpose of his son.

5. This Court has heard arguments advanced on behalf of both sides and perused the material on record.

6. In the present case, it is not disputed that the present petitioner has travelled abroad on about 20 occasions in the past with permission of this Court and the learned Trial Court. It is also admitted that the petitioner has never misused the liberty of going abroad and had returned to India in time without violating any condition imposed on him for the purpose of going abroad. It is also noted that the son of the petitioner has to be admitted in York



University to pursue Master Marketing (MMKG) Program. The respondent has not disputed the genuineness of the documents placed on record regarding admission of the son of the petitioner in the York University of Canada and that he has deposited the requisite part-payment towards the same. As regards the contention that applicant had forged some documents once to obtain permission to travel abroad, this Court notes that the applicant had already been granted permission to travel abroad thereafter, and the learned Trial Court *vide* order dated 25.05.2023, while dismissing the applications filed by the respondent under Section 340 Cr.P.C., had observed that the alleged false and fabricated documents were not *custodial legis* and the applicant had not obtained any relief on strength of such documents.

7. This Court also takes note of the fact that admission of a child whether in school or in a college/University is a moment the parent and the child cherish forever. **It is a feeling of togetherness as well as support by the mere presence with each other, which is expected by each child and parent while achieving such a milestone. Even if a person is an accused and is facing trial, he should not ordinarily be denied these special moments of small pleasures in life. To observe and hold that the son may not need support of the father for the purpose of his admission in the University being grown up, will ignore a very crucial fact of practical life that a child is a child forever for a parent and should be permitted, if circumstances so warrant, when he is**



entering into a new life in another new country and pursuing journey of higher studies.

8. Thus, as a parent, the petitioner's presence, assistance and support is a precious right as well as moment for the parent, the child and the family, which should be allowed to the petitioner, in the absence of anything reflecting violation of any condition in the past or the petitioner not returning back to the country. This Court will not deny this moment of togetherness to the family and the son and the father at the time of his admission in a University of his choice.

9. The personal liberty of a person has to be balanced with that of any condition imposed on him by a Court of law for the purpose of securing his attendance and attending the proceedings lest he is not available to face trial. In the circumstances as the present case, the past conduct of the petitioner of having been granted permission to go abroad about 20 times and not violating any terms of such orders and returning back to India weigh in this Court's mind while granting him permission to go abroad.

10. Considering the same, this Court is inclined to allow the prayer of the petitioner to travel abroad to Canada for the purpose of admission of his son for 15 days. The permission to travel abroad to Canada for the purpose of admission of the son is allowed on the following conditions.

- i. The petitioner will furnish the entire itinerary regarding his travel and stay in Canada before this Court, prior to travelling abroad.



- ii. The petitioner shall furnish an FDR of Rs.1,00,000/- which shall be deposited with the Registry.
 - iii. The petitioner shall not exit immigration at the transit points.
 - iv. The petitioner shall file copy of e-ticket and copy of passport containing the entry regarding his visit, upon return.
 - v. The petitioner shall furnish his mobile number and e-mail Id, at the time of furnishing FDR, which shall be kept operational at all times during the period of visit to Canada.
 - vi. The details as mentioned above in (i) and (v) will also be informed to the concerned Investigating Officer.
11. As far as his other prayers regarding vacation and business commitments are concerned, the petitioner will move appropriate application before the learned Trial Court with complete details and itinerary which will be verified by the respondents and the application in light of the same will be adjudicated afresh by the learned Trial Court.
12. Accordingly, the present petition stands disposed of.
13. A copy of this judgment be sent to the learned Trial Court for information.
14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 9, 2023/zp