

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.3325 of 2022

Shrikant Mohta

....

**Petitioner**

Mr. Millan Kanungo, Senior Advocate  
assisted by Mr. Dipankar Acharya, Advocate

-Versus-

Republic of India (CBI)

....

**Opposite Party**

Mr. Sarthak Nayak,  
Special Counsel for CBI

**CORAM:  
JUSTICE R.K. PATTANAİK**

**DATE OF JUDGMENT:06.01.2023**

1. Instant petition under Section 482 Cr.P.C. is at the behest of the petitioner challenging the legality and judicial propriety of the impugned order dated 19<sup>th</sup> October, 2022 under Annexure-8 passed in T.R. No.4 of 2017 by the learned Special Judge (CBI-I), Bhubaneswar corresponding to R.C. Case No.39/S/2014 whereby an application dated 15<sup>th</sup> September, 2022 for release of passport to enable him to travel abroad for the reason stated was declined.

2. Heard Mr. Kanungo, learned Senior Advocate appearing for the petitioner and Mr. Nayak, learned Special Counsel for CBI.

3. Mr. Kanungo, learned Senior Advocate submits that the petitioner is the Managing Director of SVF Entertainment Private Limited (in short 'SVF') which is a company registered under the Companies Act and engaged in the business of film production, distribution etc. through various modes and formats and in course of its business, by an agreement dated 7<sup>th</sup> April, 2010 (Annexure-1), the SVF assigned the sole and exclusive satellite television broadcasting rights of 70 feature

films to Brand Value Communications Limited (shortly as 'BVC') to be broadcast through its channel 'Rupashi Bangla' for a period of three years and thereafter, entered into another agreement dated 23<sup>rd</sup> May, 2010 (Annexure-2) for a daily television programme 'Suhasini' to air it through the channel at an agreed rate per episode. It is submitted by Mr. Kanungo that SVF and BVC had a dispute with the assigned agreement under Annexure-1 and in that respect, an FIR was lodged against the petitioner and others which was challenged before the Calcutta High Court and the chargesheet was accordingly quashed by order dated 15<sup>th</sup> January, 2014 (Annexure-3) and the same was challenged by BVC before the Apex Court by an SLP but it was dismissed by order dated 30<sup>th</sup> November, 2015 (Annexure-4) and in the meantime, BVC filed C.P. No.361 of 2012 before the Calcutta High Court for winding up of the SVF which was dismissed and ultimately by virtue of an arbitration clause in the agreement under Annexure-1, the dispute was referred to the Arbitration Tribunal which passed the award on 13<sup>th</sup> June, 2018 and the same has been challenged under Section 34 of the Arbitration and Conciliation Act by the petitioner. As against the aforesaid background, the petitioner was summoned by the CBI in connection with the present case and completely in disregard to the fact that there is independent transaction and disputes between the parties, he was arrested and finally chargesheeted on 22<sup>nd</sup> May, 2020 under Sections 420, 408, 409 and 120-B IPC and Sections 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act which on a bare perusal and scrutiny, no clinching evidence or material could be found against him. Against the chargesheet filed, Mr. Kanungo, learned Senior Advocate lastly submits that the criminal proceeding is under challenge in CRLMC No.3407 of 2019.

4. Mr. Kanungo, learned Senior Advocate submits that the petitioner is a film producer and has carved out a niche for himself in the film CRLMC No.3325 of 2022

industry in the Eastern India and has produced many films and serials during his professional career and travelled to different locations for shooting and recently despite all odds and difficulty has decided to launch a film by name 'Abar Bibaho Abhiyan' and in that connection, the production has entered into a service provider agreement with Indo Bangkok Films Company Ltd. with a schedule prepared for the shooting in Thailand and for the said purpose, application dated 15<sup>th</sup> September, 2022 was filed for release of the passport and necessary permission to travel to Thailand which was rejected vide Annexure-8. It is submitted that the petitioner undertakes to surrender to the jurisdiction of the learned court below after he returned from Thailand. Lastly, Mr. Kanungo submits that the petitioner has roots in the society and he is unlikely to abscond from the limits of the learned court below and hence permission should be granted to travel abroad in connection with the film production and that too considering the background facts, disputes and litigations besides the criminal proceeding which is primarily directed against BVC which collected public money under the chit fund schemes.

5. Mr. Nayak, learned Special Counsel for CBI on the other hand submits that in compliance of the orders and direction dated 9<sup>th</sup> May, 2014 in W.P.(C) Nos.401 and 413 of 2013 of the Apex Court, the instant case was registered by the CBI against the Rose Valley and others and during investigation, it was revealed that the Chairman of the said company and other officials in furtherance of a criminal conspiracy collected deposits more than Rs.17,000 crore from the general public by floating different schemes without necessary approval of the regulatory authorities like, RBI, SEBI under the banners of M/s. Rose Valley Hotels & Entertainments Ltd., M/s. Rose Valley Real Estate & Constructions and M/s. Real Estates and Landbank India Ltd. and out of the said amount, approximately Rs.9,000 crores has not been returned to the depositors and out of

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the total an amount of Rs.906 crore was collected from the State of Odisha and Rs.713 crore is still outstanding. Mr. Nayak further submits that during and in course of investigation after initial chargesheet filed in 2016, the petitioner was arraigned as an accused in the 3<sup>rd</sup> Supplementary chargesheet on 23<sup>rd</sup> May, 2019 as the investigation disclosed that he as the Director of SVF entered into an agreement with the Rose Valley Group of Companies for the purpose of transferring the satellite television broadcasting rights at a consideration of Rs.25 crores, however, the purpose of transmission of films was to attract more TRP value in the channel 'Rupashi Bangla' of M/s. BVC to impress upon the depositors for more investment. It is also claimed that the petitioner had the knowledge about the illegal money collection and activities of Rose Valley Group and under the above circumstances and when the bail of the petitioner was twice rejected by this Court on the ground that sufficient prima facie materials exist and the fact that he was released on bail by the orders of the Apex Court on medical ground, any such permission granted to him to leave the country would not be wise and proper as there is every likelihood of him not returning to the limits of the court below considering the serious charges levelled against him and the fact that he is part of huge and massive economic fraud. While contending so Mr. Nayak, learned Special Counsel for CBI referred to the order of this Court in BLAPL No.1983 of 2019 besides the order of the Apex Court in Criminal Appeal No.27 of 2021 filed by the petitioner to satisfy the Court that he was released on medical ground.

6. As per the impugned order under Annexure-8, the request for release of the passport with a permission to travel to Thailand for and in connection with film production was declined. The learned court below was not inclined to grant the permission since no evidence was produced to show that the petitioner is required to travel for any such film shooting except a poster of the proposed film. The learned court CRLMC No.3325 of 2022

below was of the view that if the passport is released in favour of the petitioner, he might leave the country and any such order and permission would also amount to recall of one of the conditions of the bail order dated 12<sup>th</sup> January, 2021.

7. Admittedly, there is no travel programme or itinerary submitted or furnished to the learned court below from the side of the petitioner. Mr. Kanungo, learned Senior Advocate submits that the travel is proposed and once the passport is released, the schedule of the programme would be finalized. In support of the production of the film, a copy of the poster of the film 'Abar Bibaho Abhiyan' (Annexure-7) was produced before the learned court below and it is submitted that for the said purpose, the passport should have been released. Admittedly one of the conditions in bail order dated 12<sup>th</sup> January, 2021 was to surrender the passport and not to leave the jurisdiction without the court's permission. The apprehension expressed by Mr. Nayak, learned Special Counsel for CBI that there is a prima facie case made out against the petitioner and he was released on medical ground and not on merit and it is an economic offence and fraud and any such release of the passport could lead to a situation where the petitioner might not return to India. It is submitted that the fundamental right of the petitioner under Article 19(1) of the Constitution of India is not absolute which can be visited with restrictions and rightly the learned court below rejected release of the passport in his favour.

8. It has not been drawn to the attention of this Court any such instance to show that the petitioner did ever avoid investigation by the CBI till the time he was arrested in connection with the case. There is no material either to allege that the petitioner has violated any of the conditions of the bail order dated 12<sup>th</sup> January, 2021. No doubt the allegations against the petitioner is that he was in a way

involved which is alleged to be with the requisite knowledge about the source of fund from chit fund business of the Rose Valley Group of Companies. It is a matter of record that the parties had been in business transaction vis-a-vis satellite television broadcasting rights. But then, the petitioner is a producer and runs a business in the production of films, etc. and has been in such activities for quite some time. It is claimed that an agreement has been entered into by the production house of the petitioner with Indo Bangkok Films Company Limited.

9. The question is, whether, the passport should be released with the permission to the petitioner to travel abroad? Undeniably, the petitioner has the freedom to pursue his professional career in the film production but as rightly said by Mr. Nayak, learned Special Counsel for CBI, such right is subject to restrictions as enumerated in Article 19(2) of the Constitution of India. As is known, the fundamental rights guaranteed under the Constitution of India are non-absolute. This is where the concept of reasonable restrictions in Article 19 of the Constitution of India does appear.

10. In the instant case, no doubt restrictions have been imposed against the petitioner with conditions but then at present, permission is sought for by him for release of passport to travel abroad for the reason stated. The petitioner was no doubt granted bail on medical ground. As earlier mentioned, it is not alleged at any point of time that the petitioner after release on bail ever misutilised the liberty. The petitioner is alleged to have received the consideration from BVC but under an agreement towards satellite television broadcasting rights. Considering the totality of facts and circumstances of the case, the Court is of the view that since the petitioner is a known figure in the entertainment industry based at Kolkata, there is a remote chance of his absconding and staying away from the limits of the court below

and having regard to the fact that the investigation is concluded and there is no material placed on record to show that he had ever misutilised the liberty granted after release on bail, the passport should be released in his favour with a permission granted to him to leave Kolkata for the stated purpose by imposing necessary conditions.

11. Accordingly, it is ordered.

12. In the result, CRLMC stands allowed. As a necessary corollary, the impugned order dated 19<sup>th</sup> October, 2022 passed in T.R. No.4 of 2017 by the learned Special Judge, CBI-I, Bhubaneswar is hereby set aside. Consequently, the passport is directed to be released in favour of the petitioner in order to enable him to travel to the destination proposed for the purpose of film production for which he shall submit the itinerary/travel schedule and details of the duration and place of stay in Thailand before the learned court below which shall impose such other conditions as would be found necessary and expedient including the period of travel after hearing the parties in order to ensure his early return to India.

(R.K. Pattanaik)  
Judge

U.K. Sahoo