

THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI

CRIMINAL PETITION No.4408 of 2022

ORDER:

This Criminal Petition under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed seeking to set aside the order dated 09.05.2022 made in Crl.M.P.No.48 of 2022 in Crl.M.P.No.19 of 2022 in C.C.No.1096 of 2016, on the file of learned VII AJCJ-cum-XXXII Additional Metropolitan Magistrate, Cyberabad, Kukatpally by permitting the petitioner/accused No.1 to travel abroad/United States of America (U.S.A) to pursue his employment on such terms and conditions as this Hon'ble Court deems fit and proper, by suspending the Look Out Notice/Circular issued against the petitioner/accused No.1 in relation to C.C.No.1096 of 2016 arising out of FIR No.702 of 2015 of K.P.H.B. P.S., Cyberabad.

2. Heard Sri Dharmesh D.K. Jaiswal, learned counsel for the petitioner/accused No.1, learned Additional Public Prosecutor for respondent No.1/State and

Sri Krishna Swamy, learned counsel appearing on behalf of Sri Namavarapu Rajeshwar Rao, learned Assistant Solicitor General of India appearing on behalf of respondent No.2. Perused the record.

3. The brief facts of the case are that the petitioner/accused No.1 is a citizen of USA. The father of the victim filed a complaint against the petitioner/accused No.1 and his parents while the petitioner/accused No.1 was in USA. The Investigation Officer after completion of investigation, filed charge sheet against the petitioner/accused No.1 along with parents as accused Nos.2 & 3 for the offences punishable under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, showing the petitioner/accused No.1 as absconding. The Court below took cognizance against accused Nos.1 to 3 and issued NBW against petitioner/accused No.1 and summons to accused Nos.2 & 3. Consequent upon pending execution of NBW against the petitioner/accused No.1, a Look Out Notice was issued against the petitioner/accused No.1, which was pending since then.

On 06.04.2022, when the petitioner/accused No.1 visited India to meet/take care of his parents, the officials of respondent No.2 detained the petitioner/accused No.1 on the ground of issuance of a Look Out Notice prior to filing of the charge sheet and also seized his passport and handed over the petitioner/accused No.1 to 1st respondent Police. The petitioner/accused No.1 was produced before the learned VII AJCJ-cum-XXXII Additional Metropolitan Magistrate, Cyberabad, Kukatpally and the learned Magistrate by order dated 06.04.2022 released the petitioner/accused No.1 on bail on furnishing of personal bond of Rs.10,000/- along with two sureties of like sum each and further directed the petitioner/accused No.1 to not to leave India without the permission of the Court until further orders. The petitioner/accused No.1 filed Crl.M.P.No.19 of 2022 in C.C.No.1096 of 2016 on the file of learned VII AJCJ-cum-XXXII Additional Metropolitan Magistrate, Cyberabad, Kukatpally seeking release of his passport and the said petition was allowed on 13.05.2022 by imposing conditions that the petitioner/accused No.1

shall not leave India without prior permission of the Court. The petitioner/accused No.1 filed Crl.M.P.No.48 of 2022 in Crl.M.P.No.19 of 2022 in C.C.No.1096 of 2016 on the file of learned VII AJCJ-cum-XXXII Additional Metropolitan Magistrate, Cyberabad, Kukatpally to permit him to travel to USA to report to his duties. The said petition was dismissed on 09.05.2022 by the learned Magistrate on the ground that the petitioner/accused No.1 has not disclosed when he would return back for proceeding with the case and has not given any specific undertaking with regard to the steps that would be required for closure of the case.

4. The petitioner/accused No.1 has filed an undertaking affidavit before this Court, wherein it is stated as follows:

“7. It is submitted that I have undertaken in my petition before the Trial Court and more clearly before this Hon’ble Court that I would return to India as and when directed by the Trial Court since presently I have to immediately return back and report to my duties. It is submitted that I am also taking steps for filing a petition under Section 205 of Cr.P.C. to permit me to be represented by a Special Vakalath Holder for a smooth functioning of the Trial without any adjournments at my

behest including the examinations under Section 251 and 313 of Cr.P.C.

8. It is submitted that I can also specifically mention that I can come to India by the end of October, 2022.

It is therefore prayed that this Hon'ble Court may be pleased to permit me to leave India to enable me to join my duties at the U.S.A. with any of the following conditions:

- a. I shall return to India as and when directed by the Trial Court at appropriate stage

Or

I shall return to India by the end of October, 2022;

- b. I may be given liberty to file a petition u/s.205 of Cr.P.C to be represented by a Special Vakalath Holder for a smooth functioning of the Trial including examination u/s.251 and 313 of Cr.P.C. which shall be decided by the Trial Court and pass appropriate Orders. In the event of the same being allowed, I shall return to India as and when specifically directed by the Trial Court.
- c. Any other condition which may be passed by this Hon'ble Court as deems fits and proper in the interest of justice.”

5. Considering the said facts, the impugned order dated 09.05.2022 in Crl.M.P.No.48 of 2022 in Crl.M.P.No.19 of 2022 in C.C.No.1096 of 2016, on the file of learned VII AJCJ-cum-XXXII Additional Metropolitan

Magistrate, Cyberabad, Kukatpally is set aside and the petitioner is permitted to travel abroad to pursue his employment for a period of six months from today subject to petitioner executing a personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) before the trial Court and offering bank guarantee/FDR for the said amount before his departure. It is made clear that if the petitioner fails to return to India within the stipulated time, the personal bond and bank guarantee/FDR offered by the petitioner shall stand forfeited in favour of State Government without any notice. However, LOC if any issued against the petitioner herein, his passport in relation to the subject crime, shall be kept in abeyance for a period of six months from today.

6. This Criminal Petition is accordingly disposed of.

7. Miscellaneous Petitions, pending if any, shall stand closed.

JUVVADI SRIDEVI, J

19.05.2022
KL/dv