

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : CODE OF CRIMINAL PROCEDURE

CRL.M.C. 4231/2012

Date of Decision: 14th December, 2012

NANDINI BHATNAGAR Petitioner
Through: Mr. S.K. Bhaduri, Advocate with
Mr. Krishna Kumar, Advocate with
petitioner in person.

versus

STATE GOVT. OF NCT OF DELHI Respondent
Through: Mr. Manoj Ohri, APP for State with
ASI Narender Singh, PS CWC Nanak
Pura, New Delhi.
Mr. Atul Aggarwal and Mr. Deepak
Jain, Advocates for complainant.
Complainant in person.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

MANMOHAN, J : (Oral)

Crl.M.A. 19845/2012 (exemption) in Crl.M.C. 4231/2012

Allowed, subject to just exceptions.

Accordingly, present application stands disposed of.

Crl.M.C. 4231/2012 & Crl.M.A. 19844/2012

1. Present petition has been filed under Section 482 Cr.P.C. challenging the condition imposed by the Additional Sessions Judge, Dwarka Courts, New Delhi, whereby the petitioner has been directed “not to leave the boundary of the NCT of Delhi as well as the NCR and the country without the prior permission of the concerned Court of Ld. M.M.”.

2. Issue notice.

3. Ms. Jasbir Kaur, learned APP accepts notice on behalf of the State. Mr. Atul Aggarwal, learned counsel accepts notice on behalf of complainant. With consent of parties, matter is taken up for hearing.

4. The relevant facts of the present case are that petitioner's sister-in-law had filed a First Information Report being FIR No.124/2012 with Crime Against Women Cell, Nanakpura, New Delhi under Sections 498A/406/34 IPC. In the said FIR, allegations have been made against the petitioner and her family members.

5. The Sessions Court granted anticipatory bail to the petitioner vide order dated 06th October, 2012. But by the said order, it imposed the aforesaid impugned condition. The order passed by the Additional Sessions Judge is reproduced hereinbelow:-

“ Heard. In view of the submissions and averments made in the application and the allegations against the present applicant being the unmarried sister-in-law (nanad) of the complainant, the applicant is admitted to anticipatory bail on furnishing personal bond in a sum of Rs.25,000/- with one surety in the like amount in the event of her arrest to the satisfaction of concerned IO/arresting officer/SHO.

The applicant is directed to join the investigation as and when required by the IO and she is also directed to deposit her passport within 2 days with the IO and she is directed not to leave the boundary of the NCT of Delhi as well as the NCR and the country without the prior permission of the concerned Court of Ld. MM and if, she gets the permission from the concerned Court, she is also directed to inform the same to the IO.

The application is disposed of accordingly.

The copy of this order be given dasti to both the parties for its compliance.”

6. It is stated in the present petition that petitioner is employed with the International Finance Corporation which is a part of the World Bank group and due to exigency of work, she has to periodically travel out of station and even abroad.

7. It is further stated in the petition that petitioner has to travel on 17th December, 2012 to Nepal in connection with a development project. It is also stated that for the said project she has to travel on and off to Nepal for a period of approximately six months. A letter dated 04th December, 2012 to this effect issued by Ms. Monica J Chander, Head-Portfolio, South Asia Manufacturing, Agribusiness and Services Department is enclosed.

8. It is settled law that right to travel is a facet of personal liberty and is protected by Article 21 of the Constitution of India. (See Maneka Gandhi Vs. Union of India & Anr., (1978) 1 SCC 248 and Satwant Singh Sawhney Vs. D. Ramarathnam, Assistant Passport Officer, Government of India, New Delhi & Ors., AIR 1976 SC 1836).

9. This Court also takes judicial notice of the fact that the condition of obtaining prior permission before leaving the boundary of Delhi is a cumbersome one as the permission takes time and causes hardship to the petitioner. This Court is of the view that the impugned condition would certainly restricts the accused's fundamental right to travel.

10. Undoubtedly, the accused's right to travel can be curtailed by a reasonable, transparent and fair procedure, but in the opinion of this Court such a restriction should be rarely imposed by the trial court while granting bail and that too, for cogent reasons.

11. However, in the present case, this Court finds that the Additional Sessions Judge has not given any reason for imposing the aforesaid restriction.

12. This Court is of the view that the right to travel cannot be curtailed as a matter of routine – as has been done in the present case.

13. This Court is also of the opinion that if the impugned condition imposed by the Additional Sessions Judge is not immediately set aside, the petitioner in the near future could lose her job.

14. Moreover, in the opinion of this Court, petitioner who is having no criminal antecedents and good academic qualifications is unlikely to abscond.

15. Consequently, present petition is allowed and the condition imposed by the impugned order dated 06th October, 2012 restraining the petitioner from leaving the boundary of the NCT of Delhi as well as the NCR and the country without the prior permission of the Court of Metropolitan Magistrate is set aside.

16. The SHO/Investigating Officer is directed to release the petitioner's passport forthwith.

17. With the aforesaid observations, present petition and application stand allowed.
Order dasti.

Sd./-
MANMOHAN, J

DECEMBER 14, 2012