

THE HONOURABLE SRI JUSTICE D.RAMESH

CRIMINAL PETITION No.96 of 2022

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 seeking to quash the order dated 17.09.2021 in C.F.No.989 dated 23.08.2021 in C.C.No.04 of 2017 on the file of the Court of the Principal Sessions Judge, Nellore and to return the passport of the petitioner to travel to USA after its renewal.

2. Heard learned counsel for the petitioner and the Assistant Public Prosecutor appearing for the respondent.

3. Learned counsel for the petitioner submits that by virtue of the order, dated 24.04.2019 in CrI.P.No.11351 of 2018 passed by this Court, passport of the petitioner was temporarily returned on 25.07.2019 and he resubmitted the same on 18.10.2019 before the court below. Thus, the petitioner scrupulously complied the conditions imposed by this Court and did not miss use the liberty granted by this court permitting the petitioner to travel abroad. He further submits that passport of the petitioner is due for renewal and the petitioner intends to visit his daughter after her delivery, who is residing in USA, therefore, sought for temporary return of the passport for a period of six months.

4. Learned counsel further relied on the decision passed by this Court in CrI.P.No.1954 of 2020, following the ratio laid down by the Hon'ble Apex Court rendered in Criminal Appeal

No.179 of 2008 in the case of “Suresh Nand V. CBI”, wherein the Apex Court observed that impounding of a passport cannot be done by the Court under Section 104 Cr.P.C. though it can impound any other document or thing. Accordingly, this court held that neither the Police nor the Courts have power to seize the passport or to direct the accused to deposit or surrender the passport even when a criminal case is pending in the court of law and only the Passport Officer is the competent authority to impound the passport.

5. Considering the submissions made by the learned counsel for the petitioner and in the light of the law laid down by the Hon’ble Apex Court cited supra, this Criminal Petition is allowed setting aside the order dated 17.09.2021 in C.F.No.989 dated 23.08.2021 in C.C.No.04 of 2017 on the file of the Court of the Principal Sessions Judge, Nellore and the passport of the petitioner shall be returned for a period of six months from today i.e., 23.03.2022 to 22.09.2022, subject to the condition of the petitioner executing a self-bond for a sum of Rs.2 lakhs (Rupees Two Lakhs only) and to produce for equal amount FDR in the name of the petitioner with provision for encashment by court.

As a sequel, the miscellaneous applications pending, if any, shall stand closed.

JUSTICE D.RAMESH

Date: 23.03.2022
Issue C.C. within two (02) days.
B/o.
Pnr