

24.09.2022

Present: Sh. S. Tabrez, Ld. Counsel for applicant Robert

Vadra.

None for ED.

This is an application filed on behalf of applicant Robert Vadra for submitting on record the necessary documents in compliance of the order dated 12.08.2022 and for release of FDR of Rs.25 lakhs.

1. It emerges that vide order dated 12.8.2022 applicant was granted the permission to travel to UK via UAE, to Spain and Italy for four weeks with the direction that the applicant shall restrict his stay in UK to 10 days and subject to certain terms and conditions. The applicant had filed compliance report in accordance with conditions (I) & (ii) and besides the itinerary and travel tickets and address particulars had furnished FDR for a sum of Rs.25 lacs in his name vide application filed on 22.8.2022 which were taken on record on 24.8.2022. The applicant thereafter on 13.09.2022 after his return filed the present application dated 9.9.2022 for submitting necessary documents in compliance of the order dated 12.8.2022 and applied for release of FDR of Rs. 25 lacs in favour of Sh. Shambhu Prasad on his behalf in terms of his authorization letter dated 9.9.2022.

2. On a perusal of the documents filed with this application, the boarding passes, it came to light that the applicant reached UAE on 25.8.2022 and then took the flight to London for 29.8.2022 whereas the concession granted under order dated 12.8.2022 was only to travel to UK via UAE and no permission to travel to UAE for any period of time had been

sought nor any such permission had been granted and further that the applicant was directed to restrict his stay in UK for 10 days, but here was no document filed to show his exit from UK, therefore the applicant was directed to file on affidavit his itinerary along with copies of relevant pages of the passport and also to produce his passport. The applicant in pursuance filed his affidavit affirming that in pursuance to the order dt.12.08.2022 he left for UK on 25.08.2022 via UAE and returned to India on 08.09.2022 within the stipulated period. That he stayed in UAE before embarking on his further journey because he had Deep Vein Thrombosis (DVT) in his left leg and he had been advised to take proper rest between long-haul flights, and during the said trip, since there was inflammation and pain in his left leg, he had to stop and seek medical advice in Dubai on 27.08.2022 at the LGA medical Facilitation Centre meant for medical emergencies of travelers in Dubai where he was advised further medical treatment in this respect. Such assertion on solemn affirmation of the applicant contained in para 5 of the affidavit dated 19.9.2022 that the applicant was forced/compelled under the circumstances on account of medical exigencies to stay at UAE while traveling via UAE to UK was not accepted and show cause notice was ordered to be issued to the applicant to explain as to why the FDR deposited in terms of order dated 12.08.2022 be not forfeited for violating the terms and conditions of the permission granted to the applicant under the said order.

3. The applicant has submitted on affidavit to the show cause notice so issued that the applicant has an established pre-existing medical history of DVT (Deep Vein Thrombosis), for which he had been earlier granted permission to travel to USA (vide order dt. 03.06.2019) for treatment and consultation, that

the medical history record produced also attests to an established pre-existing problem of DVT and that the submission made in this regard under the previous affidavit, therefore was not by way of any afterthought. That it is due to this now chronic condition of DVT that he has been advised several times not to undertake long-haul flights in continuity and to provide for adequate breaks in journeys accordingly. That on 17.08.2022, since he had suddenly developed redness and pain in his left leg, by way of abundant caution a buffer was kept of 4 days stay at Dubai when he purchased the tickets on 19.08.2022.

4. That with bonafide intention and in the interest of transparency, an undertaking along with the affidavit containing full flight and hotel details including the stay of four days at Dubai and the airline tickets were sought to be filed before this Hon'ble Court on 22.08.2022, 23.08.2022 and 24.08.2022, prior to departure as directed vide order dt. 12.08.2022. That the Ld. Link Judge also passed an order to this effect, that the said undertaking filed along with affidavit containing flight, hotel details and airline tickets is taken on record. That there was no intention to surreptitiously stay in Dubai and to conceal this fact from this Hon'ble Court, otherwise it would never have been so disclosed in the travel itinerary and airline tickets submitted with the undertaking.

5. That if any query/objection had come to be raised by this Hon'ble Court at the time filing of the affidavit, the query would have been fully satisfied prior to travel the itinerary modified accordingly. That the itinerary and travel tickets were taken on record without any objection, the applicant was under the bonafide impression that there is no objection to the break in journey at Dubai. That In fact, on 25.08.2022, during travel to

Dubai from Delhi, the applicant's medical condition in respect of DVT further worsened and he had sought an appointment with a doctor in Dubai who prescribed medication and recommended two days rest prior to continuing travel. He was also advised further medical treatment for the said condition post travel and has subsequently sought an appointment with his doctor in the US for the same. That all the actions of the applicant in this regard were completely unintentional and purely in good faith on account of bonafide inadvertence and that there was no attempt to conceal and suppress any information from this Hon'ble Court on any occasion.

6. Ld. Counsel submitted that a mistake has occurred in as much as an amended application seeking permission to stay over at Dubai for four days during the trip to the UK pursuant to permission granted by this Hon'ble Court to travel abroad was required to be filed, and that it is deeply regretted that out of inadvertence the same was not filed, however the conduct of the applicant throughout has been nothing less than bonafide. That this Hon'ble Court had permitted the applicant to travel both to Dubai and via Dubai to other countries on three previous occasions is to Greece via UAE vide order dt. 10.05.2021, to UAE and Spain for one month vide order dt. 08.10.2021 for medical treatment and to meet his children and thereafter to Turkey and UAE for three weeks vide order dt. 21.02.2022. On each such occasion, the compliance was accepted both prior to and after travel by this Hon'ble Court and all conditions were fully complied with to the satisfaction of the Hon'ble Court, when Dubai has been a point of break in the onward journey on some of these occasions. That there had been no objection to the applicant's travel to Dubai, or stop over at Dubai on such

previous occasions. That this buffer of a brief stay in Dubai was necessitated in the wake of the sudden medical emergency and that the itinerary and travel tickets were duly filed disclosing the break in journey, that the applicant would have adhered to any and every direction in the event that a query had been raised to the itinerary depicting 4 days break in journey and would have filed amended itinerary. That it is under such circumstances that a purely bonafide mistake has occurred, and for the same the applicant has also tendered unconditional and unequivocal apology.

7. Record reflects that the applicant had not submitted any itinerary nor the travel tickets with the application seeking permission to travel abroad, which were subsequently placed on record with an application for submitting the necessary information with supporting affidavit filed on 22.8.2022, copy whereof was received by ED on 23.8.2022 and the documents were taken on record vide order dated 24.8.2022 by the Ld. Link Court. It is now the same itinerary and travel tickets with boarding pass sought that are to be placed on record upon his return to the country. The applicant produced for the perusal of the Court in the course of hearing on the last date, medical record regarding the medical condition due to which he is under medical advice not to undertake long journeys and opt for breaks in journey and has on oath asseverated that the medical condition had aggravated prior to the journey, infact upon his arrival at Dubai the applicant required medical assistance in connection with the same medical condition and a medical certificate to this effect issued by LGA Medical Treatment Facilitation Services is already on record. The applicant on previous occasions had

travelled to Dubai and via Dubai as a stop over for a break in the onward journey to the prescribed destination.

8. The Directorate alleges that the violation is deliberate and intentional and that the applicant has tried to circumvent the order of the Court, for the Directorate, as is duly noted in the order dated 12.8.2022, had opposed the permission sought to travel to UAE as well as UK. Record also reflects that copy of itinerary/travel tickets/places of stay documents submitted with the application on 22.8.2022, and taken on record on 24.8.2022 was also with the Directorate. The Directorate had due notice of the itinerary and the tickets were also on record, before the applicant had embarked on the journey, no demurral is recorded at that stage.

9. There was no objection/query, raised from any quarter before the applicant had proceeded for the travel abroad in terms of the permission granted vide order dated 12.8.2022, on previous occasions also the applicant had taken such liberties of adding stop overs/ lay overs during long journeys to permitted destinations. The submission therefore is not misplaced the explanation not too far fetched that the applicant was under a bona fide impression that the four days stay at Dubai is not in contravention of the permission accorded vide order dated 12.8.2022, as the itinerary was accepted without demurral. It has also to be conceded in favour of the applicant that as no objection was raised, no reservations expressed at that stage, despite the applicant having divulged all details before leaving for U K via UAE, the applicant proceeded with the journey in good faith and that if any such objection had been raised at the appropriate stage, the applicant could have had the adequate opportunity to amend the itinerary or abandon the travel and seek permission

afresh or apply for modification of the order dated 12.8.2022, which course is no longer availed to remedy the situation at this post facto stage.

10. Though the omission in seeking modification of the order dated 12.8.2022 cannot be condoned as such however from the contents of the affidavit I am satisfied that the omission is not intentional the explanation is not an afterthought and conduct of the applicant does not lack in bona fides and good faith. The applicant has tendered unqualified and unconditional apology for the lapse which is accepted in the circumstances as noted above, however the applicant is warned to remain careful in future. The show cause notice stands accordingly discharged.

11. The applicant having shown sufficient cause and satisfactory explanation for the 4 days stop over at UAE, the compliance Report is taken on record. As the applicant has returned to the country in terms of the permission granted, the FDR deposited on 22.8.2002 is ordered to be released in terms of the authorization letter filed with the application in favour of Shambhu Prasad upon due identification and against receipt.

Application is disposed of accordingly.

Dasti.

NEELOFER ABIDA PERVEEN  
Special Judge (PC Act) (CBI)  
Rouse Avenue Court  
New Delhi 24.09.2022