

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

CRR 1272 of 2023

**Raghib Parwez
Vs.
State of West Bengal**

**For the petitioner : Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee**

For the State : Mr. Suman De

Judgement on : 05.04.2023.

Bibek Chaudhuri, J.

An order dated 4th April, 2023 is impugned in the instant revision. The petitioner is one of the accused in connection with Sessions Case No. 65/2019. He belongs to Mohammedan faith of religion. During this period of Holy Ramjan, the petitioner intends to visit Macca for performing Umrah during the period between 1st April, 2023 and 24th April, 2023. He prayed for permission to perform Umrah leaving this country and visiting the holy city of Macca. The learned Public Prosecutor-in-charge conceded to his prayer. In spite of such fact the learned Trial Judge rejected the prayer of the petitioner on the ground that the petitioner had already visited the place in 2018 and he was suffering from certain mental disorder at

the relevant point of time. The learned Trial Judge also relies on the decisions of ***Maneka Gandhi –Vs.- Union of India & Anr.*** reported in ***(1978) 1 SCC 248***, ***Satwant Singh Sawhney –Vs.- D. Ramarathnam & Ors.*** reported in ***AIR 1967 SC 1836***, ***Satish Chandra Verma –Vs.- Union of India & Ors.*** reported in ***MANU/SC/0826/2019*** in support of his decision.

This Court is of the view that the instant revision can be disposed of here and now with the assistance of the learned Public Prosecutor-in-Charge. Therefore, Mr. Suman De, learned Advocate is requested to assist this Court on behalf of the prosecution which he agrees.

The appointment of Mr. De be regularized by the learned Legal Remembrancer, Government of West Bengal.

I have heard the learned Counsels for the parties. At the outset, I like to state that the decisions relied on by this Court relate to different aspects where the passport of a person was seized or under the direction of the Court it was surrendered before the judicial authority. In the instant case, the accused is on bail and no such condition is imposed upon him. There cannot be a reason that a person is refused to offer prayer at a holy place of their religion because he once performed Umra Haj in the year 2018. If this ground is accepted, as a logical corollary it would mean that a person of any religion cannot offer his prayer or puja if it is once performed by him. Considering such aspect of the matter, I am not in a position to accept the logic behind the order passed by the learned Trial Judge on 4th April, 2023. The order dated 4th April, 2023 passed in Sessions Case No. 65/2019 is accordingly set aside.

The instant revision is allowed on contest.

The petitioner is permitted to perform Umrah and for such purpose he is entitled to visit Macca unless his travel is not prohibited by any other authority under the law.

The Investigating Officer is directed to release the passport of the petitioner. The petitioner is directed to return and appear before the Trial Court by 27th April, 2023.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 01.
S/L