

**IN THE COURT OF PRINCIPLE SENIOR CIVIL JUDGE & CJM,
Ramanagara,**

Dated 23rd day of February 2012

Present:

Smt.Pushpavathi V., B.A.L., LL.B.,
Prl. Senior Civil Judge & C.J.M.
Ramanagara.

C.C.No.204/2010

BETWEEN:

State by Bidadi Police
(investigated by the C.I.D.)
H & B Squad, Carlton House,
Bangalore.

Complainant

(Represented by Sri.A.P.P.)

AND:

Sri.Nithyananda Swamy and others

Accused

ORDER

This application is under Section 451 of CrPC filed by accused 1 with a prayer to release the passport with additional booklet and the travelers cheque of the total value of 800 US Dollars which belongs to him to his interim custody forthwith.

2. It is his case that during the investigation of the case in Cr.No.141/2010 and 142/2010 registered at Bidadi Police Station, Ramanagara District. The H & B Squad, C.I.D., had seized the passport, additional booklet and travelers cheque of the total value of 800 US Dollars and had fixed in P.F. of that case. Subsequently, the accused persons had arrested including accused 1 in this case, they have been enlarged on bail by the Hon'ble High Court of Karnataka on two

conditions, one of the said condition is that the accused persons should not leave the jurisdiction of this court without permission and shall mark the attendance once in a month. Subsequently in criminal petition No.2328/2010 the condition requiring him to mark his attendance once in a month and further requiring him to obtain permission of this court when he required to go out of jurisdiction of this court for the period ending up to July 2011 have been relaxed. Thereafter, the present application was filed before this court for release of passport and additional booklet, travelers cheque of total value of 800 US Dollars. With this grounds the accused 3 prays to release the passport, additional booklet and travelers cheque of the total value of 800 US Dollars. The prosecution has filed objections opposing to release the passport with the grounds the passport is necessary to prove their case during the trial with other grounds.

3. While hearing the application, the learned counsel for accused 1 filed memo not pressing the application in respect of additional booklet and the travelers cheque of the total value of 800 US Dollars and to read the application for interim custody of passport only.

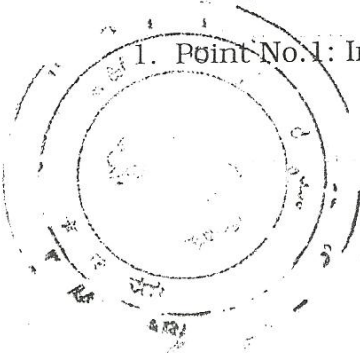
4. The learned counsel has also produced the copy of the orders passed by the Hon'ble High Court of Karnataka in Cr.Pet.No.3590/2011 along with Misc.Cr.No.3757/2011 and the certified copy of the orders passed in Cr.Pet.No.2328/2010 (Misc.Cr.No.2233/11 for relaxation).

5. Heard perused, the points that arise for my consideration are:

1. Whether the petition is fit to be allowed?
2. What order?

6. My answers to the above points are:

1. Point No.1: In partly affirmative



2. Point No.2: As per the final order for the following

REASONS

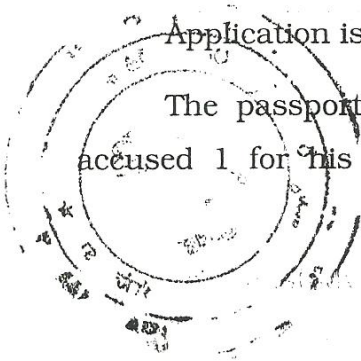
7. Point No.1: The passport has been seized in this case at the time of investigation in Cr.No.141/2010, it was subjected to P.F., at the time of filing of the charge sheet the passport was also submitted to this court. On this application the incharge court had at first passed orders on 20-06-2011. The incharge court had released the passport with some conditions. The accused 1 aggrieved against the said conditions had preferred criminal miscellaneous petition before the Hon'ble High Court of Karnataka in Cr.Pet.No.3590/2011 along with Misc.Cr.No.3757. In the said orders the Hon'ble High Court of Karnataka had given directions to this court to reconsider the present application by taking into consideration the observation that the passport is not incriminatory material object in this case, it is now well-settled law by catena of decisions of the Apex Court that the authority to impound passport is vested only with the authorities under the Passport Act and nobody else. No court including the High Court is competent to order for impounding passport. So, taking into consideration the directions of the Hon'ble High Court of Karnataka in Cr.Pet.No.3590/11 along with Misc.Cr.No.3757/11, I hold the accused 1 is entitled to his passport to his interim custody. As such, I answer point No.1 in partly affirmative.

8. Point No.2: For the reasons said above, I proceed to pass the following

ORDER

Application is hereby allowed.

The passport of the accused 1 be released into the custody of accused 1 for his interim custody till the disposal of this case, the



accused 1 shall execute indemnity bond for Rs.1,00,000/- and shall furnish surety for like sum for the following conditions:

1. The accused shall not use the passport for misuse.
2. He shall produce the passport whenever the court orders.

(Dictated to the Stenographer, transcribed and computerized by her, corrected, revised and then pronounced by me in the open court on this the 23rd Day of February, 2012.)

[Signature]

(PUSHPAVATHI V)

Prl. Senior Civil Judge & C.J.M.
Ramanagara.

[Handwritten signature]
1 FEB 2012

Court applied on	2/3/12
Court applied to	
Applicant	2/3/12
Applicant	2/3/12
Court	2/3/12
Court	2/3/12
Created at	
Examined by	<i>[Signature]</i>

