

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Sri. Anil.K. Bhaskar, Judge for NIA Cases

Friday the 9th day of December, 2022/18th Agrahayana , 1944

Crl. M.P. No.148/2022 in SC 2/2021/NIA

Petitioner/Accused No. 14 : B.G. Krishnamurthy @ Vijay @ Babanna @ Bhaskar @ Kumara @ Vijay @ Gangadhara @ Gopal Rao (**A14**), age 46 years, S/o. B.K. Gopal Rao, Nemmar Estate, near Bukkadibylu, Shringeri Taluk, Chikkamagaluru District, Karnataka.

By Adv. Sri. Thushar Nirmal Sarathy

Respondent/Complainant : Union of India represented by National Investigation Agency, Kochi.

**By Sri. Arjun Ambalappatta
Public Prosecutor, NIA**

This Criminal M.P coming on for hearing before me on 09.12.2022 and the Court on the same day passed the following:-

ORDER

1. The petitioner B.G.Krishnamurthy (A14) who is in judicial custody detained in High Security Prison, Viyyur moved the above petition through the jail Superintendent seeking escort parole for visiting his aged mother and other close relatives.

2. The petitioner is facing trial for the offences punishable under Sections 121 and 122 IPC, 3 r/w 25(1B) (a) Arms Act 1959 and 18A, 20, 38 of Unlawful Activities (Prevention) Act, 120B, 125 of IPC and Sections 38, 39 and 40 of UA(P) Act. He is in judicial custody from 10.11.2021 onwards.

3. The petitioner hails from Chikkamagaluru in Karnataka State. It is stated that petitioner's mother aged 75 years is residing alone in the house. He is having 5 sisters all are married. They are residing in the husband's house at the distance of 40-500 kilometers away from maternal house. Petitioner is the only son to the family. Due to the long distance to be covered, it is not possible for the family members to come and meet the petitioner. After his arrest till this date he was not able to see his mother and family members. His aged and infirm mother is insisting the petitioner to meet her directly to discuss some internal family issues and to initiate necessary repair and restoration work of the old family house without any delay before the upcoming rainy season. Petitioner is also eager to meet his aged mother, his sisters, brother in laws and their children. Petitioner feels that such a meeting will provide good relief from the stress and strain due to the long period of incarceration. For these reasons, petitioner seeks an order for escort parole for a visit to his native place to meet his aged mother and close relatives.

4. Notice served to the learned Public Prosecutor. The learned Prosecutor submitted that, if it is legally permissible, NIA doesn't stand in the way of granting escort parole to the petitioner.

5. A report was also called for from the Jail Superintendent. Jail Superintendent is totally against granting escort parole. In the report it is stated that, petitioner is involved in around hundred cases. His advocate used to occasionally visit the petitioner. Through out during his remand period the petitioner is keeping regular contacts with his family over phone as permitted by jail authorities. Travel restrictions connected with Covid regulations stands completely

withdrawn. If the family members really want to meet the petitioner they can visit the jail. Apart from this, facilities are available in the jail to make whatsapp video calls to family members. Petitioner had also utilized this facility. Moreover petitioner has no case that his family members are suffering from any infirmities which prevent them from visiting the jail. Apart from all these, as per Rule 415(2) of Kerala Prisons and Correctional services (Management) Rules, escort parole to visit outside the state of Kerala is not permissible and the only exceptional circumstance is the death of the close relative of the remand prisoner.

6. Heard both sides.

7. Factually, petitioner is having a good case. Petitioner is under detention for more than one year. Till this date he had not seen his aged mother and close relatives. To release the stress and strain of incarceration, it requires occasional meetings with family members. No adverse reports were received so far against the petitioner from the jail authorities. It appears that he had exhibited reasonably good behaviour and discipline. Moreover his mother being aged 75 years, it will not be just and proper to insist that his aged mother shall travel all the way from Karnataka to Kerala to see his son who is happened to be detained in jail. These circumstances are favourable to the petitioner to getting an escort parole to visit his close relatives.

8. But, rightly pointed out by the Jail Superintendent in his report, under Rule 415(2) of Kerala Prisons and Correctional services (Management) Rules, escort parole to visit outside the state of Kerala is not permissible and the only exceptional circumstance is the death of the close relative of the remand prisoner.

The petitioner's request doesn't come under the exception. Therefore, the request made by the petitioner cannot be allowed.

9. Today, petitioner brought on VC. He is informed about the bar under Rule 415(2).

In the result,

- a) Petition dismissed as not maintainable.
- b) Jail Superintendent, High Security Prison, shall give preference to the petitioner in using the facility available for making whatsapp video calls to his family members.

Dictated to the Confidential Asst., typewritten by her directly to the computer system, corrected and pronounced by me in open court on this the 09th day of December, 2022.

Sd/-
Anil. K. Bhaskar
Judge, Special Court for NIA Cases

Appendix:-Nil

Id/-
Judge, Special Court for NIA Cases
(By Order)

//True Copy//

Sd/-
Sheristadar.