

(2001) 02 DEL CK 0062

In the Delhi High Court

Case No : Criminal M. (M) No. 369 of 2001

Ajit Srimal

APPELLANT

Vs

The State and Another

RESPONDENT

Date of Decision : 14-02-2001

Acts Referred:

Citation : (2001) 3 AD 645 : (2001) 90 DLT 492 : (2001) 58 DRJ 113

Hon'ble Judges : Ramesh Chandra Chopra, J

Bench : Single Bench

Advocate : Mr. H.S. Phoolka and Mr. Alakh Kumar, for the Appellant; Mr. M.S. Butalia and Mr. Rakesh Malhotra, for the Respondent

Judgement

R.C. Chopra, J.—This petition u/s 482 of the Code of Criminal Procedure is directed against the orders dated 15.11.2000 and 9.12.2000 passed by learned trial Court directing the petitioner not to leave the country without prior permission of the Court and thereafter allowing his application for going abroad subject to furnishing Bank Guarantee in the sum of Rs.2 lacs.

2. The petitioner is facing a trial before learned Metropolitan Magistrate u/s 138 of the Negotiable Instruments Act. It is true that under the orders of the High Court, trial of the complaint case has to be expedited, but in such like cases where identity of an accused is not in dispute, the trial can be conducted in the presence of a duly authorised counsel also after exempting an accused from personal attendance on the basis of a properly moved application. However, the fact remains that the petitioner, who is involved in a bailable offence only, has no sufficient reasons to flee from justice in exactly similar matter, a learned Single Judge of this Court in Anup s. Khosla Vs. The State (N.C.T. of Delhi) 2000 (1) JCC 206 has clearly held that such conditions are harsh and onerous and as such, cannot be sustained.

3. In my view also, imposition of the impugned condition against the petitioner's leaving the country without permission of the Court and then permitting him to

leave subject to furnishing a Bank Guarantee of Rs.2 lacs was too harsh and onerous and cannot be sustained. The aforesaid conditions, Therefore, are set aside and the petitioner is permitted to leave the country as and when required subject to the condition that before his departure, he shall inform the Court in writing regarding the date of his departure, date of return and his address at the country he proposes to visit and further subject to getting exemption from appearance before the Court in case the matter is fixed on a date on which he is not in the country.

4. The petition stand disposed of accordingly.