

Present:
Mr. Justice Zafar Ahmed
And
Mr. Justice Khandaker Diliruzzaman

Criminal Appeal No. 9565 of 2022

Ferdous Jobayet Islam Bhuiya

...Accused- appellant.

-Versus-

The State and another

...Opposite- parties

Mr. Md. Momtaz Uddin Fakir, Senior
Advocate with

Mr. Baki Md. Murtoza, Advocate

.....For the appellant

Mr. Md. Ashif Hasan, Advocate

.....For the ACC.

Heard on: 14.03.2024
Judgment on: 15.05.2024

Zafar Ahmed, J.

The instant appeal filed under Section 22 of the Money Laundering Prevention Act, 2012 is directed against the order dated 05.09.2022 passed by the Special Sessions Judge, Tangail in Money Laundering Case No. 01 of 2020 arising out of Tangail Sadar Police Station Case No. 21 dated 16.09.2018

corresponding to G.R. No. 403 of 2018 rejecting the application of the appellant to return his passport.

Earlier, the appellant obtained bail from this Division on 17.11.2019 in Criminal Miscellaneous Case No. 44172 of 2019 subject to deposit of his passport before the Court concerned. The said judgment and order was upheld by the Apex Court in Criminal Petition For Leave To Appeal No. 1755 of 2019, vide order dated 22.10.2020. Thereafter, the appellant made an application before the trial Court to return his passport for the reasons stated therein. The Court below, vide order dated 05.09.2022 rejected the said application and hence, the instant appeal.

Md. Momtaz Uddin Fakir, the learned Senior Counsel appearing for the appellant, submits that the appellant needs his passport for renewal of the passport of his minor son who is a citizen of Austria. Moreover, the tenure of the Austrian passport of the appellant has expired and the same is required to be renewed.

The learned Senior Counsel next submits that the appellant will not abscond and he will face the trial. The appellant is willing to deposit the original registered title deed

being No. 813 dated 18.01.2011 which is a partition deed between the co-sharers of the appellant before the trial Court as security. It appears from page No. 8 of the said original title deed that the petitioner is the owner of the properties mentioned in Schedule-Kha.

Mr. Ashif Hasan, the learned Advocate appearing for the ACC, on the other hand, submits that it is for the trial Court to decide the matter. He prays for dismissal of the appeal.

The trial Court observed in the impugned order that if the passport is returned to the appellant there is a likelihood that he might abscond. The learned Counsel appearing for the appellant has produced the original registered title deed before us and submits that the appellant is willing to deposit the same before the Court below as security for return of the passport.

Considering the facts and circumstances of the case, in particular the fact that the passport of the appellant is required for renewal of the Austrian passport of his minor son and that the tenure of the Austrian passport of the appellant has expired and the same is required to be renewed, we are of the view that the minor son should not suffer for no fault of his own. However, Mr. Ashif Hasan, the learned Advocate of the ACC

rightly points out that this matter should be decided by the trial Court.

Accordingly, the appellant is at liberty to file fresh application before the Court concerned to return his passport upon submitting the original registered partition deed being No. 813 dated 18.01.2011 (page 8 of which contains the portion of the appellant's share) as security. Moreover, the appellant is required to give a clear undertaken that if he is required to travel abroad, he would return to Bangladesh. The Court concerned is directed the consider the application, if any, positively in accordance with the observations made in this judgment. If the appellant violates the conditions, the Court concerned is at liberty to pass necessary order regarding the title deed.

With the above observations and directions, the appeal is disposed of.

Communicate the judgment at once.

Khandaker Diliruzzaman, J.

I agree.

Mazhar/BO