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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C.10259/2024**

M/S. CNA EXPORTS PVT LTD

.....Petitioner

Through: **Mr. Krishan Kumar and Mr. Shivam Bedi, Advocates.**

versus

THE STATE AND ANR.

.....Respondents

Through: **Mr. Aman Usman, APP for State.
Mr. Sumer Boparai and Mr. Surya Pratap Singh, Advocates for R-2.**

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

27.12.2024

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CRL.M.A. 39346/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

CRL.M.C.10259/2024 & CRL.M.A.39345/2024

3. The Petition under *Section 528* of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (hereinafter 'BNSS') has been filed against the order dated 27.12.2024 whereby the Respondent Sh. Janak Datwani has been permitted to travel abroad from 29.12.2024 to 10.03.2025.
4. The only grievance expressed on behalf of the Petitioner is that there are criminal and civil litigations pending for many years in which evidence has not been recorded. In so far as the criminal trial is concerned, the date for recording of evidence in the criminal case



is given for 28.03.2025 i.e. after the 10.03.2025, when the Petitioner has to return.

5. Petitioner has also expressed concern that there is 18 year old civil litigation pending wherein the directions have been given by the Single Judge to the Local Commissioner for recording of the evidence and to make an endeavour to complete the evidence of Mr. Janak Datwani within three months which is going to get over on 03.01.2025. There are six dates which are fixed for recording of evidence which would be seriously impacted because of his travel abroad.

6. Learned Counsel on behalf of the Respondent has submitted that these Orders for travelling abroad have been given in the criminal case and are not pertaining to the civil trial. Moreover, the liberty has already been granted for getting the evidence of the Respondent recorded through VC, in Civil matter. Learned counsel for the Respondent further submits that the learned Local Commissioner has resigned and the new Local Commissioner had to be substituted.

7. **Submissions heard.**

8. So far as the civil matter is concerned, it has already been taken care by the learned Trial Court who has directed that an appropriate Application for getting the evidence recorded through VC be made.

9. Moreover, the next dates for recording of evidence are still not notified and, therefore, the Respondent cannot give any undertaking in regard to appearing physically in India for recording of evidence.

10. The directions are hereby modified that in case the need be and



the exigencies of the circumstances so warrant, appropriate Application be filed by the Petitioner before the Court to seek his physical presence in the case where recording of evidence is being inordinately delayed or there is no arrangement that can be done through the VC during the period the Respondent is out of India.

11. No further directions are required.

12. Petition stands disposed of.

13. The Revision is still pending before the learned ASJ who may decide the same without being influenced by the Order made by this Court.

**NEENA BANSAL KRISHNA
(VACATION JUDGE)**

DECEMBER 27, 2024

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