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

+ W.P.(C) 15577/2023 & CM APPL. 62369/2023

PREMA KUMARI

..... Petitioner

Through: Mr. Subhash Chandran K. R. and Ms.
Ms. Krishna L.R., Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Pavan Narang, Sr. Panel Counsel
with Mr. Himanshu Sethi and Ms.
Aishwarya Chhabra, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

12.12.2023

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1. The Petitioner has approached this Court for a direction to facilitate the travel of the Petitioner, along with a few other members of Save Nimisha Priya International Action Council. The prayers in the instant writ petition read as under:-

“a) Issue a writ/order/direction in the nature of Writ of Mandamus or any other Writ / Order or Direction directing Respondents to facilitate travel of the Petitioner along with other members of Save Nimisha Priya International Action Council in compliance with order passed by this Hon’ble court in Writ Petition (C) No. 4296/2022 dated 15.03.2022 and order dated 16.11.2023 passed by this Hon’ble Court in Writ Petition (Civil) No. 13839 of 2023 for initiating negotiations with the family of victim on behalf of Ms. Nimisha Priya to save her life by paying blood money



in accordance with the law of land; and;

b) Issue a writ/order/direction in the nature of mandamus or any other appropriate writ / order directing Respondents to initiate negotiations with the family of victim on behalf of the Petitioner and report the same to this Hon'ble Court regularly; ”

2. Material on record indicates that Nimisha Priya, the daughter of the Petitioner herein, a trained nurse, was working in a private hospital in Yemen. It is stated that when turmoil broke out in Yemen, Priya's husband and the minor daughter returned to India whereas she continued to stay in Yemen. It is stated that thereafter, Nimisha Priya, the daughter of the Petitioner herein, was convicted for murder in Yemen and was awarded the death penalty.
3. It is stated by Mr. Pavan Narang, learned Senior Panel Counsel for Union of India, that now the punishment death penalty awarded to Priya stands confirmed by the highest judicial authority in Yemen.
4. Material on record indicates that last year, a writ petition bearing W.P.(C) 4296/2022 had been filed for a direction to the Union of India to take proactive steps to defend Nimisha Priya. Therein, this Court *vide* Order dated 15.03.2022 had directed the Union of India to extend all help to Nimisha Priya in the judicial process, and accordingly, an Attorney was appointed.
5. Learned Counsel for the Petitioner states that the said Attorney on 30.08.2022 had written a letter to His Excellency Ambassador of India in Sana'a and Djibouti. A copy of the said letter has been handed over to this Court with an advance copy to the learned Counsel for the Union of India.



The Ambassador of India in Sana'a and Djibouti has also been informed that efforts could be made to settle the case amicably by paying a certain amount of money owing to the influence of the Sana'a government.

6. This Court observes that despite this remedy having been suggested a year and half back by the Attorney, the Petitioner herein, who is the mother, wants to explore the same in a desperate attempt to save her child.

7. It is to be noted that on 26.09.2017, the Union of India had brought out a notification in the form of a travel advisory as per which passports and travel documents issued by Central Government would be rendered invalid for travel to Yemen for Indian passports holders. However, Clause 3 of the said notification gives the power to the Central Government to relax the said notification for specific and essential reasons of travel, for which a limited time period may be granted by the Central Government at the express request of the applicant, who would nevertheless travel at his or her own personal risk without any liability to the Government of India or the concerned State Government. Clause 3 of the said notification reads as under:-

“3. The aforesaid directions may also be relaxed by the Central Government for specific and essential reasons of travel, for which permission for a limited time period may be granted by the Central Government at the express request of the applicant who would, nevertheless, travel at his or her own personal risk without any liability to the Government of India or any State Government concerned and any such request for exemption may be sent to jsgulf@mea.gov.in.”

8. This Court on 04.12.2023 had enquired from the Petitioner as to who would accompany the Petitioner to Yemen for the purposes of exploring the



legal remedy of an amicable solution in the matter. In pursuance of the same, two affidavits, one of Samuel Jerome Baskaran holding an Indian passport No. Z4211698, who possesses a valid visa for Yemen and has been working in Yemen for more than 24 years, and another affidavit of one K Sanjeev Kumar holding Indian passport No. W1489497, who worked in Yemen for more than 10 years, have been filed.

9. The affidavit of Samuel Jerome Baskaran states that he is willing to travel along with the Petitioner, the mother of Nimisha Priya, to help her in negotiating with the concerned authorities. The affidavit also states that he is travelling to Yemen at his own personal risk and responsibility, without any liability to the Government of India or the concerned State Government.

10. Learned Counsel for the Petitioner has also stated in Court that the Petitioner will be travelling at her own personal risk without any liability to the Government of India or the concerned State Government.

11. In view of the affidavit filed on behalf of Samuel Jerome Baskaran as well as the submission of the learned Counsel for the Petitioner, this Court is inclined to direct the Union of India to relax the notification dated 27.09.2017 in consonance with its Clause 3, for the Petitioner, on the Petitioner filing an affidavit to the effect that she will be travelling to Yemen with Samuel Jerome Baskaran for the purposes of negotiating the release of her daughter Nimisha Priya at her own personal risk and responsibility without any liability to the Government of India or any concerned State Government.

12. This Court directs that the itinerary, the date of travel and the date of returning to India, must be stated in the affidavit of the Petitioner.

13. With the above directions and observations, this petition is disposed



of, along with pending application(s), if any.

DECEMBER 12, 2023

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SUBRAMONIUM PRASAD, J