

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 153 OF 2015
IN
CRIMINAL APPLICATION NO. 118 OF 2015

Mr. Sandip Sankarlal Kedia. ... Applicant.
Versus
The State of Maharashtra. ... Respondents.

Mr. V.V. Mohite, advocate for Applicant.

Ms. Veera Shinde, APP for State.

Mr. Vikas Badia, in person, CA of original complainant.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 18, 2015

P.C.:

1 The applicant herein is seeking the permission to travel to Dubai on 19th February, 2015. The applicant is present in the court. The learned Counsel for the applicant submits that the applicant would travel to Dubai on 19/2/2015 only to meet his son. An undertaking is also being given that the applicant would return on 19/2/2015 itself to India and report to the police station on 20/2/2015 at 10 a.m.. The learned Counsel submits that this is a

solemn undertaking given by the applicant, who happens to be the father of the child Arnav. He seriously desires to meet the child at Dubai on 19/2/2015 i.e. tomorrow.

2 Yesterday a statement was made by the Constituted Attorney for the original complainant that the stay granted by the Hon'ble Division Bench to the impounding of passport has been vacated by an order dated 3rd February, 2015. Today, learned Counsel for the applicant has placed on record all the orders passed by the Hon'ble Division Bench, which are taken on record and marked as Article "X".

3 It is apparent on the face of the record that the order of stay has not been vacated. A misleading statement was made by the Constituted Attorney of the original complainant. Today, a submission is made that it is not a misleading statement, but a justification is being given that the stay was granted only in Writ Petition No. 1437 of 2014. He submits that he is making submissions on the basis of the records.

4 This Court has observed the intervention of the attorney of the original complainant in every hearing. In fact, the original complainant cannot object to the present application. However, he is of the opinion that there are serious issues and granting liberty to the applicant to travel to Dubai even for one day would have serious repercussions. This Court is not impressed with the vehement submission of the Constituted Attorney of the original complainant. It is submitted across the bar that the Writ Petitions are listed on board today.

5 This Court is of the opinion that the Hon'ble Division Bench is yet to adjudicate upon the issue of impounding of passport and other allied issues. Subject to the adjudication of the Hon'ble Division Bench, this Court would be inclined to grant the present application in terms of prayer clause (a). However, it is made clear that it is only subject to grant of permission by the Hon'ble Division Bench on imposing conditions upon the applicant. The issue of impounding of

passport goes to the root of the matter and it would not be proper for this Court to grant permission to travel to Dubai during the pendency of the said issue.

6 The Constituted Attorney for the original complainant has submitted yesterday that the wife of the present applicant alongwith child are going outside Dubai for weekend. According to the Constituted Attorney, the child would not be available to meet the applicant. Learned Counsel for the applicant submits that this would be in utter violation of the mandatory orders passed by the Hon'ble Supreme Court. The learned counsel for the applicant apprehends that the respondent wife desires to frustrate the orders passed by the Hon'ble Supreme Court dated 16/12/2013. Hence, this Court would grant permission subject to the continuation of the stay to impounding passport by the Hon'ble Division Bench.

7 The constituted attorney for the original complainant seeks liberty to place on record written submissions and orders.

8 Subject to the adjudication of the Hon'ble Division Bench, following order is passed :

ORDER

(I) The application is allowed in terms of prayer clause (a) subject to the stay continued against impounding of passport by the Hon'ble Division Bench.

(ii) The applicant shall report to the concerned police station on 20/2/2015 at 10 a.m.

(iii) Applicant shall submit his itinerary, cell phone number and address at Dubai to the concerned police station forthwith.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)