IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.709 OF 2014

STATE OF MAHARASHTRA	**)...APPLICANT**
V/s.	
1) NAZIR MUSSA	**)**
2) SHOBHIT RAJAN	**)...RESPONDENTS**

WITH

CRIMINAL APPLICATION NO.764 OF 2014

SHOBHIT RAJAN	**)...APPLICANT**
V/s.	
1) NAZIR MUSSA	**)**
2) STATE OF MAHARASHTRA	**)...RESPONDENTS**

WITH

CRIMINAL APPLICATION NO.190 OF 2015

SHOBHIT RAJAN	**)...APPLICANT**
V/s.	
1) STATE OF MAHARASHTRA	**)**
2) NAZIR MUSSA	**)...RESPONDENTS**

WITH

CRIMINAL APPLICATION NO.144 OF 2015

NAZIR MUSSA	**)...APPLICANT**
v/s.	
1) STATE OF MAHARASHTRA	**)**
2) SHOBHIT RAJAN	**)...RESPONDENTS**

WITH
CRIMINAL APPLICATION NO.44 OF 2015

NAZIR MUSSA)...APPLICANT
v/s.
1) STATE OF MAHARASHTRA)
2) SHOBHIT RAJAN)...RESPONDENTS

WITH
CRIMINAL APPLICATION NO.122 OF 2015

NAZIR MUSSA)...APPLICANT
v/s.
STATE OF MAHARASHTRA)...RESPONDENT

IN

BAIL APPLICATION NO.1257 OF 2014

NAZIR MUSSA)...APPLICANT
v/s.
STATE OF MAHARASHTRA)...RESPONDENT

Ms.Fereshete Sethna with Chirag Dave with Mr.Shantanu Singh with Ms.Khusboo Shah with Ms.Anuradha Dutt i/b. Duttmenon Donmorrsett, Advocates for the Applicant in Cri.Appln.Nos.144 of 2015, 190 of 2015, 44 of 2015, 122 of 2015 and Bail Application No.1257 of 2014 and for the Respondent No.1 in Cri.Appln.No.709 of 2014, 764 of 2014.

Mr.Deepak Thakre, APP for the Applicant/State in Cri.Appln.No.709 of 2014 and for Respondent – State in all other Applications.

Mr.Vibhav Krishna with Mr.B.R.Maurya i/b. Juris Constllis Advocate for the Respondent No.2/Intervener in Cri.Appln.No.144 of 2015, 44 of 2015, 709 of 2014 and 190 of 2015 and for the Applicant in Cri.Appln.No.764 of 2014.

CORAM : ABHAY M. THIPSAY, J.

DATE : RESERVED ON : 5th MAY 2015
PRONOUNCED ON : 11th JUNE 2015

<u>ORAL ORDER</u> :

1 All these six applications can be conveniently disposed of by this common order, as, by consent of all concerned, they were heard and considered together, keeping in mind that the questions that needed determination are either the same or intricately connected to one another.

2 By an order dated 8th July 2014, passed in Criminal Application No.1257 of 2014, this court granted bail to Nazir Mussa, who is the accused no.3 in MECR No.11 of 2013 registered with the Economic Offences Wing, Unit III. The said Crime Report had been registered on the strength of an order passed by the Additional Chief Metropolitan Magistrate, 9th Court, Bandra, under Section 156(3) of the Code of Criminal Procedure (Code) on a complaint filed by one Shobhit Jagdish Rajan, alleging

commission of offences under Sections 420, 464, 465, 468, 471, 474, 477A, 417, 418 of Indian Penal Code (IPC) read with Sections 109, 120B and 34 thereof, by eight persons including the said Nazir Mussa. It is the registration of the said MECR No.11 of 2013 and the order granting bail to the said Nazir Mussa, that has given rise to these applications.

3 Criminal Application No.709 of 2014 has been filed by the State of Maharashtra praying that bail granted to the said Nazir Mussa be cancelled. Criminal Application No.764 of 2014 is also for cancellation of bail granted to the said Nazir Mussa. It has been filed by the said Shobhit Rajan – the original complainant. By Criminal Applications Nos.190 of 2015 and 144 of 2015, the said Shobhit Rajan is seeking intervention in Criminal Application No.44 of 2015 and Criminal Application No.122 of 2015, which have been filed by the said Nazir Mussa for permission to depart from India and go to United Kingdom, where he resides.

4 I have heard Smt.Fereshete Sethna, the learned counsel for the said Nazir Mussa (applicant in Criminal Applications Nos.44 of 2015 and 122 of 2015). I have heard Mr.Deepak Thakre, the learned APP for the State in support of the Criminal Application No.709 of 2014. I have heard Mr.Vaibhav Krishna, the learned counsel for the said Shobhit Rajan in support of the Criminal Application No.764 of 2014 for cancellation of bail granted to Nazir Mussa. The original complainant – Shobhit Rajan, was allowed to interevene in the matter and his counsel was heard at length. The counsel for the parties and also the learned APP, who represented the State of Maharashtra, were permitted to file extensive written arguments.

5 For the sake of convenience and clarity, the said Nazir Mussa shall hereinafter be referred to as 'the present accused' or 'the accused no.3', and the said Shobhit Rajan as 'the complainant' or 'the original complainant'.

6 Against the order granting bail to the accused no.3, who is a British national, the original complainant had approached the Supreme Court of India by filing a Special Leave Petition. The Special Leave Petition was disposed of by an order dated 10th November 2014, wherein, Their Lordships of the Supreme Court of India made it clear that they were not inclined to interfere with the order granting bail. Their Lordships, however, stipulated, that the accused no.3 was not to leave the country, till, for reasons to be recorded, the court would permit him to do so. Their Lordships also observed that, in the event of the accused no.3 *failing to co-operate with the police in the matter of investigation, it will be open for the State / Prosecution to seek cancellation of the bail.*

7 Now the applications for cancellation of bail have been made, as aforesaid, by the State and by the original complainant, on the ground that, the accused no.3 is not co-operating with the investigating agency in the investigation. It is submitted that custodial interrogation of the accused no.3 is essential for the

purposes of investigation. It is also submitted that, in any event, the accused no.3 cannot be permitted to depart from India, and that, in the event of a permission to depart from India being granted to him, the accused no.3 is certain to abscond.

8 The learned counsel for the accused no.3 submitted that there was absolutely no case for cancellation of bail. According to her, the allegations of the accused no.3 not co-operating with the investigating agency in the matter of investigation, are false and baseless. It is also submitted by the learned counsel for the accused no.3 that the applications for cancellation of bail have been made not with any genuine hope of success, but only in the hope that making of such an application would defeat the application for permission to go to United Kingdom.

9 Since Criminal Applications Nos.44 of 2015 and 122 of 2015 have been filed by the accused no.3 for the same purpose, and since the same relief is sought for in both these applications, for all purposes, the applications are treated as one. It is not

necessary to mention the circumstances in which two different applications came to be filed for the same relief.

10 The order dated 8th July 2014 granting bail to the accused no.3 reads as under :

> "Application is allowed.
>
> Applicant is ordered to be released on bail in the sum of Rs.2,00,000/ with one surety in like amount, or two sureties in the sum of Rs.1,00,000/each, on the following conditions :
>
> (i) The applicant shall attend the office of the Economic Offences Wing, Unit3, everyday between 11.00 a.m to 1.00 p.m, excluding Saturdays, Sundays and Public holidays, till the filing of the chargesheet or until further orders, whichever is earlier.
>
> (ii) The applicant shall not depart from India except with the express permission of the concerned Magistrate.
>
> (iii) The applicant shall agree for the retention of his passport by the

> Investigating Agency, till the disposal of the case against him, or until further orders of the concerned Magistrate.
> All concerned to act on an authenticated copy of this order."

11 There is no dispute that the accused no.3 had been attending the office of the Economic Offences Wing, Unit-III, as directed by this court.

12 Mr.Deepak Thakre, the learned APP, however, submitted that though the accused no.3 had been attending the office of the investigating agency, he has not been replying to the queries made by the Investigating Officer and has not disclosed the required information. He also submitted that the accused no.3 was called upon to produce a number of documents which were relevant for the purpose of investigation, but he has failed to produce the same. According to the learned APP, it is only if the accused no.3 is detained in custody and interrogated, there would be a possibility of securing the relevant documents and / or information.

13 Similar grounds have been raised in Criminal Application No.764 of 2014 also.

14 Though the claim is that the cancellation of bail is sought for only in the interest of the investigation, the submissions advanced by Mr.Krishna, the learned counsel for the original complainant, and Mr.Deepak Thakre, the learned APP, covered so many other aspects of the matter, such as – the seriousness of the offences allegedly committed by the accused no.3, the alleged suspicious conduct of the accused no.3, and the accused no.3 having committed some other offences also – i.e. offences not mentioned in the complaint, and not arising out of the dealings of the accused No.3 with the complainant. From the arguments advanced by the learned counsel for the original complainant and the learned APP, it appears to me that their real grievance is about the order granting bail itself; and that because of the awareness of the position that it would be futile to contend that bail should not have been granted, emphasis on 'the breach of conditions of bail' by the accused no.3 and 'the conduct of the accused no.3 after bail

was granted to him', which are the generally acceptable grounds, in law, for cancellation of bail, is being placed. In these circumstances, it would be necessary to refer to the facts of the MECR No.11 of 2013. Since they were mentioned, in brief, in the order granting bail, they may be stated here in the same manner.

15 The case of the original complainant is that he is engaged in the business of Real Estate Development. That, in the year 1998, a multi national Company – M/s.Parke Davis India Ltd – was desirous of selling their real estate property admeasuring about 13 acres situated at Saki Naka, Andheri (East) Mumbai, and in that connection, the complainant had discussions and negotiations with one Mr.Lele, the Managing Director of M/s.Parke Davis. At that time, the complainant came in contact with one Alnoor Hasanali Jamal – the accused No.1 in the complaint and the said MECR through the said Mr.Pramod Lele. The accused no.1 represented himself to be a rich businessman, ready to invest his surplus funds jointly with the complainant in purchase of the said property at Saki Naka. That the complainant

entered into a joint venture agreement with the accused no.1 with the understanding that each party i.e. the complainant and the accused no.1 shall contribute 50% each in the purchase of the said property, its related costs and towards subsequent construction and development of the real estate project, thereupon. That the complainant was induced and made to believe that the accused no.1 would bring payment for his 50% share in purchase of the said property and development of the project. Believing and relying on these promises, the assurances and commitments that the accused no.1 shall make payments as assured, the complainant was allegedly induced and 'made to reduce his entitlement to the property from 100% ownership to a 50% ownership'. By an agreement dated 23rd December 1999 entered into between the complainant and the accused no.1, it was recorded that the said property would be purchased and developed through a joint venture company “A Class Builders and Developers” (now known as “Pantheon Infrastructure Private Limited). The aggregate purchase price to be paid to M/s.Parke Davis was Rs.49 crore and 10% thereof was payable as earnest money. The complainant paid his part of the earnest money i.e. Rs.2.45 crore, and the accused no.1 paid his part of the said money i.e. 2.46 crore. The monies were to be invested by the complainant and the accused no.1 through the companies owned or controlled by them. The accused no.1 did not honor his commitment, did not bring any money as promised, and this resulted in requiring the complainant to borrow huge loans from Banks and financial institutions by mortgaging the complainant's properties. Thus, the complainant has been forced to incur heavy liabilities by mortgaging his own properties and has suffered a loss to that extent which is said to be of Rs.250 crore.

16 The basic and real grievance of the complainant, as can be seen from the complaint, is only that the accused no.1 has managed to have a 50% share in the said property without investing the amounts as agreed upon by him, which has resulted in requiring the complainant to raise loans from financial institutions by mortgaging his own properties.

17 While granting bail to the accused no.3, it was observed that the role attributed to the present accused (Nazir Mussa) needed to be examined in the said background. The present accused is the uncle of the accused no.1. He is a Chartered Accountant by profession. The complaint alleges that he and one Noor Ali Velji had also made some false representations about the accused no.1 being a rich businessman etc. and had induced the complainant to enter into a joint venture with the accused no.1 in respect of the said property.

18 Observing that the basic grievance of the complainant was against the accused no.1 (it was felt not necessary to examine whether there existed a prima facie case of the alleged offences against the accused no.1) and that, the role attributed to the accused no.3 was minor and quite insignificant, when compared to that attributed to the accused no.1, bail was granted to the accused no.3 by the aforesaid order.

19 The matter has been fought by the learned counsel for the parties with rather unusual vehemence. The learned counsel for the original complainant raised several contentions which are not directly connected with the grievance of the original complainant as made out in the complaint, but tend to show that the accused no.3 is *generally of a bad character and of a fraudulent nature*. He questioned several dealings of the accused no.3 and the other accused in connection with their company M/s.Akkadian Housing and Infrastructural Private Limited, which is the accused no.2 in MECR No.11 of 2013. The learned counsel for the accused no.3, on the other hand, made attempts to refute each and every allegation leveled against the accused no.3. The learned counsel for the original complainant has argued the matter as if the accused no.3 is to be proved guilty and convicted at this stage itself and that too not only in respect of the offences allegedly committed by him as per the version in the complaint but also in respect of some other offences which, according to him, the accused no.3 has committed. This has led to the learned counsel for the accused no.3 arguing as if it would be necessary for the

accused no.3 to 'prove' his innocence if he is to be allowed to remain on bail and / or to depart from India. In my opinion, all this was uncalled for and clearly was a result of the bitterness that has been generated between the parties.

20 The first point that needs determination is, whether the bail granted to the accused no.3 is liable to be cancelled. If the court comes to the conclusion that it should be cancelled, then that would be the end of the matter; but if the court comes to the conclusion that there is no case for cancellation of bail, the next point that would need determination is whether the accused no.3 should be permitted to depart from India as prayed for by him. While considering this, the possibility of the accused no.3 absconding and not returning to India for facing the investigation / trial would need consideration.

21 In reply to the contention that the accused no.3 has not co-operated with the investigating agency, the learned counsel for the accused no.3 submitted that till the relevant time,

the accused no.3 had attended the office of the investigating agency on **147 days**. According to her, as a matter of fact, the accused no.3 was not interrogated inspite of his attending the office of the investigating agency on all such dates, and that, 'he was actually interrogated only on **19 days**.' She submitted that the allegation about '*not producing the documents before the police*' was false, and that, total 17 documents were given to the investigating agency by the accused no.3 after bail had been granted to him. It is also submitted that about 50 questions have been replied by the accused no.3 in writing. The factual correctness of the statistics given by the learned counsel for the accused no.3 has not been challenged. The compilation of the documents submitted by the accused no.3, among other things, contains a table showing the details of the dates of attendance of the accused no.3 in the office of the investigating agency, whether he was interrogated or not on a given date, and if so, for how much period. The same shows that on most of the dates, when the accused no.3 attended the office of the investigating agency, he was not interrogated and sometimes even the Investigating

Officer was not present. Thus, it cannot be – and has not been – suggested that the accused no.3 has failed to attend the office of the investigating agency and offer himself for the purpose of investigation / interrogation. What is contended by the learned APP and the learned counsel for the original complainant that *though the accused no.3 has been attending the office of the investigating agency he has not been replying to the queries made by the Investigating Officer and has not been producing the required documents.* After considering the matter, I am of the opinion that there is no substance in this contention.

22 As regards non-production of documents, a number of documents have admittedly been produced by the accused no.3 before the Investigating Officer. With respect to some of the documents which the accused no.3 was called upon to produce, he has replied that he did not have the same with him. For instance, it is claimed that the 'Net Worth Certificate' (which is said to be a forged document, on the basis that the recitals therein are false, and which document allegedly was relied upon by the original

complainant to believe the accused no.1 to be a wealthy man and to enter into a joint venture agreement with him) is '*not being produced*' by the accused no.3. Now, when the accused no.3 has taken full responsibility as to the accuracy and correctness of the contents of the 'Net Worth Certificate', how the investigation would suffer for want of the original document – considering the role of this document in the alleged offences – is difficult to understand; but apart therefrom, what is the basis for believing that the original 'Net Worth Certificate' *must be* with the accused no.3, is still far more difficult to understand. This document is supposed to have been issued by the accused no.3 in the year 2001 and as per the complaint, this document was used for securing loans from financial institutions. The suggestion that '*this is with the accused no.3*' is indeed rather absurd, as submitted by the learned counsel for the accused no.3; and when such is the position, the uproar that the accused no.3 'is not producing' the said document before the Investigating Officer is totally uncalled for.

23 It is not necessary to discuss what all are the other documents which the accused no.3 is alleged to have 'not produced' before the Investigating Officer though demanded, and it may be observed generally that the accused no.3 has given his explanation with respect to such documents, and that, there is no basis for claiming that such documents were / are with the accused no.3, and that, still he is not producing the same, or that, he is deliberately not disclosing where those documents are.

24 As per the complaint, the accused no.1 was to bring in the amounts towards his share for the joint venture project through his company M/s.Akkadian Housing and Infrastructural Private Limited. Some allegations have been leveled with respect to the tampering and destruction of documents belonging to his company M/s.Akkadian Housing and Infrastructural Private Limited, the accused no.2. It is alleged, *inter alia*, that the 'Register of Investments' has been destroyed by the accused no.3. The accused no.3 has replied that no such Register of Investment was maintained by accused no.2 M/s.Akkadian Housing and Infrastructural Private Limited. It is also alleged that the original

share certificates in respect of the shares of "A Class Builders and Developers" (renamed as "Pantheon Infrastructure Private Limited), which was the company through which the joint venture project was to be effected, are not produced by the accused no.3. The accused no.3 in that regard has explained that he was not the beneficial owner of those shares which were owned by accused no.1 and that the share certificates were obtained under an order by the Company Law Board passed on 20th September 2006. In any case, how, securing of the original share certificates would be essential for making a progress in the investigation into the offences disclosed in the complaint lodged by the original complainant, is difficult to understand.

25 It is also contended that as per the accounts of accused no.2 - M/s.Akkadian Housing and Infrastructural Private Limited, there were three different shareholdings in Pantheon, although the accused no.2 had only 28.33% equity shares in Pantheon. In this regard, there appears to be some dispute as to the shareholding entitlement of the accused no.2 M/s.Akkadian Housing and Infrastructural Private Limited. The accused no.3

has given his explanation in the matter. There is also a grievance that the accused no.3 has not produced various records of M/s.Akkadian Housing and Infrastructural Private Limited, but there appears to be *insufficient basis for claiming that the accused no.3 was having such record with him*. It is submitted that the accused no.3 lives in United Kingdom and did not have any records of the accused no.2 M/s.Akkadian Housing and Infrastructural Private Limited, in his possession or custody. There is also a general allegation of *destruction of documents by the accused no.3*, and all that can be said in that regard is that, these allegations have been made on the basis of certain assumptions and presumptions, which cannot be given much importance, apart from the fact that the relevance of this, in the context of the allegation against the accused no.3 and the other accused, as leveled in the complaint / FIR, is difficult to comprehend.

26 It is also alleged that the registered office of M/s.Akkadian Housing and Infrastructural Private Limited was shifted by the accused no.3 and a co-accused in this case – one Mr.K.R.S.Nathan (accused no.5) to another premises, without

reporting this change to the court or the investigating agency. In this regard, it is submitted by the learned counsel for the accused no.3 that the registered office of M/s.Akkadian Housing and Infrastructural Private Limited was actually the residence of a local director – the said Mr.K.R.SNathan (accused no.5), and that, due to the search of the said premises and seizure of documents therefrom, pursuant to the investigation of MECR No.11 of 2013, the family members of the accused no.5 Mr.Nathan did not want the office of M/s.Akkadian Housing and Infrastructural Private Limited to remain in the residential premises of Mr.Nathan. It is submitted that, therefore, a decision was taken to shift the registered office of M/s.Akkadian Housing and Infrastructural Private Limited elsewhere, which was informed to the Registrar of Companies. It is also submitted that after the registered office was actually shifted, intimation in that regard was given to the Investigating Officer by the local director i.e. the said accused no.5 Mr.Nathan, in February 2015 itself. In my opinion, though it was desirable on the part of the accused no.3 to have given an advance intimation of the proposed change in the address of the registered office of M/s.Akkadian Housing and Infrastructural Private Limited, failure to do so, cannot be viewed as a factor – by itself or in connection with other relevant factors – sufficient for cancellation of the bail granted to the accused no.3. The registered office of M/s.Akkadian Housing and Infrastructural Private Limited was already searched in the course of investigation before the change in the address was effected and the documents thought to be relevant were seized. As such, it is not that the shifting of the office is attributable to the design of preventing the investigating agency from getting certain documents, supposed to be available in the office. Moreover, as accused no.5 Nathan resides at that place, it is not that where the office had been shifted could not have been found out by the investigating agency.

27 There are a number of allegations leveled about the alleged violations of the provisions of the Companies Act by the accused no.2 M/s.Akkadian Housing and Infrastructural Private Limited. However, according to me, that would be a separate aspect of the matter; and even if it is accepted – just for the sake of arguments – that these offences have a bearing on the offences by which the complainant is aggrieved and which are the subject

matter of the MECR No.11 of 2013, the bail granted to the accused no.3 – whose role in the offences alleged in the complaint is limited and minor even as per the complaint – cannot be cancelled because of such contraventions or violations.

28 In the written submissions filed by the accused no.3, each and every allegation leveled against the accused no.3 by the investigating agency and by original complainant, has been dealt with. It is not necessary to reproduce all such allegations and the replies given thereto, by the accused no.3, except mentioning that I have considered the same. It is not necessary to discuss the same in this order as, in any case, observing that the main dispute is, clearly, between the original complainant and the original accused no.1 Alnoor Hasanali Jamal; and that, this is not a case where the accused no.3 needs to be detained in custody for the purpose of investigation, bail has been granted to him, and this opinion formed by me has remained unchanged. Infact, the investigation is going much beyond the allegations that have been leveled in the complaint and is tending towards finding out

generally as to what offences the accused no.3 appears to have committed in his several dealings which have no relevance to the present complaint. A doubt is expressed whether he is indeed a Chartered Accountant. A doubt is expressed as to whether he has committed any offences by pretending himself to be dead, which allegation has been based on a letter dated 14th May 2007 issued by the Chartered Accountants' Benevolent Association. In my opinion, the investigating agency would be free to investigate into these aspects, but when the complaint does not relate to those facts, there would hardly be a case for cancellation of bail granted to the accused no.3 on that basis.

29 It may be observed that the accused no.1 Alnoor Hasanali Jamal has filed four complaints against the present complainant Shobhit Rajan, which all have been filed prior to lodging of the complaint giving rise to MECR No.11 of 2013. These complaints relate to the alleged cheating by the original complainant in respect of the shareholdings in Pantheon, criminal breach of trust in relation to the properties of Pantheon by

transferring the same to politicians, siphoning of funds from Pantheon, etc. In two of the cases, process has already been issued against the original complainant. The learned counsel for the accused no.3 has contended that the complaint giving rise to MECR No.11 of 2013 is only an attempt to carve out a probable defence in a case filed by the accused no.1 (C.C.No.55/SW/2012). Indeed, it appears that the said case and the case made out in MECR No.11 of 2013 give two entirely different versions of the happenings. Since both the complaints are pending before the courts of law and would be decided in the normal course, it would not be proper to express an opinion as to which of the two versions *prima facie* appears to be true. All that needs to be said is, there is a dispute between the accused no.1 and the original complainant and the possibility of the complainant having filed the present complaint as a counter blast to the complaints filed by the accused no.1 cannot entirely be ruled out at this stage.

30 It cannot be accepted that the accused no.3 has not made himself available for investigation or interrogation after his

release on bail. It is not possible to accept that he has not been interrogated in connection with the investigation into the alleged offences. It is not possible to accept that the accused no.3 has not given – or is not giving – his explanations in the matter, as are being demanded from him by the investigating agency. The question is not whether the replies given by the accused no.3 to the queries of the Investigating Officer, or the explanations submitted by him on various matters raised by the original complainant are true. The question is, whether the accused no.3 should now be detained in custody by cancelling the bail granted to him on the ground that 'he is not co-operating with the investigating agency' – and that too, when, as aforesaid, his role in the alleged offences is minor and insignificant, when compared to that attributed to the accused no.1 Alnoor Hasanali Jamal. In my opinion, the answer has to be in the negative.

31 There is absolutely no case for cancellation of bail.

32 The question that now remains to be decided is whether the accused no.3 should be permitted to depart from India.

33 The accused no.3 is admittedly a British national. Because of the present case, he has been forced to remain in India for a period of about one year. It is obvious that this is causing undue hardship to accused no.3. Inspite of the fact that the investigation is pending since last about one year, the same has not been completed. The learned APP was unable to make a statement as to when the investigation was likely to be over. On the contrary, the submissions made by the learned APP, on instructions from the Investigating Officer, give an indication that there is no likelihood of a chargesheet being filed in the matter till the accused no.1 is apprehended.

34 When such is the situation, it will not be proper to stipulate that the accused no.3 must remain in India for an indefinite period. The accused no.3 is seeking permission to depart from India only for a short period, and has undertaken to return to India as and when required by the court or the Investigating Officer.

35 There is, of course, some theoretical risk of the accused no.3 not returning to India, if permitted to depart from India, but such risk would always be there in most of the cases. Simply because of the existence of such a theoretical risk, the accused no.3 cannot be compelled to be in India for an indefinite period. The proper course would be to impose appropriate conditions upon him, while granting him permission to depart from India, so as to reduce the chances or possibility of the accused no.3 absconding.

36 In the result, the applications are disposed of as follows :

OPERATIVE ORDER IN CRIMINAL APPLICATION NO.190 OF 2014
AND
OPERATIVE ORDER IN CRIMINAL APPLICATION NO.144 OF 2014

Since the learned counsel for the intervenor has been heard fully and at length, and has even been allowed to file written submissions, the applications are treated as having been allowed to that extent and are disposed of.

OPERATIVE ORDER IN CRIMINAL APPLICATION NO.709 OF 2014

The application is dismissed.

OPERATIVE ORDER IN CRIMINAL APPLICATION NO.764 OF 2014

The application is dismissed.

COMMON
OPERATIVE ORDER IN CRIMINAL APPLICATION NO.44 OF 2015
AND
OPERATIVE ORDER IN CRIMINAL APPLICATION NO.122 OF 2015

The applicant is permitted to depart from India and travel to United Kingdom on the following conditions :

a) The applicant shall furnish a surety in the sum of Rs.5 Lac or cash deposit of Rs.5 Lac in lieu of surety, as and by way of additional security for his appearance before this court.

b) The applicant shall not visit any country, except United Kingdom.

c) The applicant shall return to India within a period of eight weeks from the date of his actual departure from India, which, however, shall not be after 31st August 2015.

d) The applicant shall give the details of his proposed journey such as ticket number, flight number etc. to the investigating agency, in writing, atleast 48 hours before his actual departure from India.

e) The applicant shall give to the investigating agency, in writing, his contact telephone numbers where he would be available for communication by the investigating agency.

f) The applicant shall return to India even before the expiry of the period of eight weeks, or before 31st August 2015, as the case may be, if required by the investigating agency, by giving 15 clear days notice to the applicant.

g) The applicant shall report to this court, by remaining present in person within the period of one week after his return to India, under intimation to the investigating agency.

37 After the applicant furnishes additional security as ordered above and executes a bond binding himself to comply with the conditions imposed above, his passport and documents from the Office of Foreigners Regional Registration Office (FRRO) be returned to him.

38 The applicant shall, however, hand over his passport back to the investigating agency within a period of three days from his return to India.

39 All concerned to act in consonance with this order and do the needful to give effect thereto.

40 At this stage, Mr.Krishna made a prayer that the operation of this order be stayed for some period as the original complainant intends to challenge the order refusing to cancel the bail and also the present order by approaching the Supreme Court of India.

41 Since the hearing of the applications has taken considerable time, I am not inclined to stay the operation of this order for a longer period. However, in the circumstances, the operation of this order is directed to be stayed till 20th June 2015, on the condition that, in the event of the original complainant intending to move the Supreme Court of India against this order, he shall do so, only after giving atleast 24 hours previous notice in writing to the counsel for the accused no.3.

(ABHAY M. THIPSAY, J.)