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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 574 OF 2015
IN
CRIMINAL APPEAL NO. 661 OF 2007

Prashant Ashok Tupe

.. Applicant

Vs.

The State of Maharashtra and anr.

.. Respondent

Mr. Niranjana Mundargi for applicant.

Mr. H. J. Dedhia, APP for State.

Mr. S. R. Shinde for respondent no.2 – Union of India.

CORAM: P. V. HARDAS &
DR. SHALINI PHANSALKAR-JOSHI, JJ.

MAY 08, 2015.

P.C.

1. This application has been filed by the applicant, who is appellant in Criminal Appeal No. 661 of 2007, seeking directions from this court for grant of permission to the applicant for obtaining passport and for grant permission to travel to Bangkok and Thailand from 20th May, 2015 to 30th May, 2015.

2. According to the applicant he was an accused in Sessions Case No. 212 of 2004 arising out of Crime No. 42 of 2004, which was registered by the Hadpasar Poilce Station for offence punishable under Section 302 of the IPC and under Section 3/25 of the Indian Arms Act. The learned Trial Judge by judgment dated 25/5/2007 convicted and sentenced the applicant for offence punishable under Section 304(II) of IPC and sentenced him to imprisonment for seven years and to pay fine of Rs.50,000/-, in default of which to undergo further RI for one year and under the Arms Act for imprisonment of three years and to pay fine of Rs.1000/-, in default of which to undergo further RI for six months. The applicant being aggrieved by the conviction and sentence, has filed Criminal Appeal No. 661 of 2007, which is pending before this court. During the pendency of the appeal, this court has released the applicant on bail. The State being aggrieved by the acquittal of the applicant for offence punishable under Section 302 of IPC, has filed Criminal Appeal No. 843 of 2008, which is also pending in this court. The State has also filed Criminal Appeal No. 1305 of 2007 for enhancement of sentence, which is pending in this court.

3. According to the applicant, he is a permanent resident of Pune and owns immovable property and has his roots in the society. The applicant, thus, contends that he is not likely to abscond as he is travelling abroad along with his family members.

4. We have heard Mr. Niranjan Mundargi, learned counsel for the applicant and the learned APP. According to learned APP, in the event permission is granted to the applicant of travelling abroad, the applicant is likely to abscond. The learned APP has admitted that there are no allegations against the applicant that the bail granted by this court has been misused by him. In our opinion, since the applicant is convicted for RI for seven years, necessary permission to the applicant to submit an application for passport as well as the necessary permission for travelling abroad can be granted on certain conditions which would allay the apprehension of the respondents that the applicant may abscond.

5. We accordingly allow this application and permit the applicant to submit an application for issuance of passport to the passport authority. On receipt of the said application, the passport authority shall deal with the application in accordance with law. If the passport authorities find that the

applicant is eligible to be issued with the passport, the passport of validity period of two years be issued to the applicant. The applicant is permitted to travel Bangkok and Thailand from 20th May, 2015 to 30th May, 2015. The applicant shall furnish the address and the telephone numbers of the places where the applicant would be available in Bangkok and Thailand from 20th May, 2015 to 30th May, 2015. On his return, the applicant shall submit a purshis in this court intimating his return to India. On his return, the applicant shall also deposit his passport with the Registry of this court.

6. Application is this allowed as indicated above.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(P. V. HARDAS,J.)