

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.224 OF 2016

Mangesh Tukaram Sawant	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Surel Shah, Adv. i/b. Sachin A Mhatre, Adv. for the applicant.
Mrs. R.M. Gadhvi, APP for the State.
API Shivaji Patil, EOW – II, Mumbai present.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 15th January, 2016.

P.C. :

1. Not on board. Upon production taken on board.
2. At the outset the learned counsel for the applicant submits that he does not wish to press prayer (ii) wherein he had sought to relax condition No.5 that “the petitioner shall not leave India without prior permission of this Court”, as imposed in the order dated 5th December, 2013 in Cri. Bail Application No.1832 of 2013.
3. Heard. Rule made returnable forthwith.
4. By this application the applicant has challenged the order dated 14th January, 2016 whereby the learned Addl. Sessions Judge, Gr. Mumbai has dismissed the application filed by the applicant seeking leave to travel to Dubai for business trip from 15th January,

2016 to 25th January, 2016.

5. Heard Mr. Shah, the learned counsel for the applicant. He has submitted that the applicant was earlier granted permission to travel abroad. The applicant has not misused the liberty. The learned counsel for the applicant submitted that the learned Addl. Sessions Judge has dismissed the application mainly on the ground that the applicant had not given correct reasons for his travel. He has submitted that the applicant is a businessman and that he required to travel abroad for inauguration of development project in Dubai. He has further submitted that the applicant has applied for visa which is valid from 13th January, 2016 to 12th March, 2016. He has submitted that the applicant is ready to abide by all the terms and conditions imposed by the Court.

6. Mrs. Gadhvi, the learned APP for the State submits that chargesheet is yet not filed and the investigation reveals that the applicant has not given the address or any other particulars of the place of business in Dubai.

7. I have perused the records and considered the submissions

advanced by the learned counsels for the respective parties. The records reveal that pursuant to the complaint lodged by Deepak Pundlik Sawant the FIR No.343 of 2007 was registered for offences punishable under Sections 465, 466, 467, 468, 471, 420 and 120(B) of IPC. The applicant was not named in the FIR, however his name was subsequently added. The applicant had therefore filed an application for anticipatory bail being No.1832 of 2013 before the Sessions Court, Greater Mumbai. By order dated 5th December, 2013 the learned Sessions Judge had granted interim bail on certain terms and conditions. One of the conditions viz. condition No.5 was that “the petitioner shall not leave India without prior permission of the Court”. By order dated 1st January, 2015, the ABA No.1832 of 2013 was granted on the same terms and conditions which were imposed while granting interim bail.

8. At the outset it may be mentioned that the Apex Court in ***Mrs. Maneka Gandhi Vs. Union of India & Anr., 1978 (1) SCC 248*** held that “... the right to travel and to go outside the country, which order regulating issue, suspension or impounding, and cancellation of passports directly affect, must be included in rights to 'personal liberty' on the strength of decisions of this Court giving a very wide

ambit to the right to 'personal liberty'.

9. The records in the instant case, reveal that the applicant herein is a businessman and that he had earlier filed an applications and sought leave to travel abroad. Said application was granted by the Sessions Judge and the applicant had complied with all the terms and conditions imposed by the learned Sessions Judge and had returned within scheduled dates given by him.

10. By application dated 8th January, 2016 the applicant had sought permission to travel to Dubai for business trip from 15th January, 2016 to 25th January, 2016. The learned Sessions Judge has dismissed the said application mainly on the ground that the applicant had not placed true and correct facts for which he needs to travel abroad. The applicant had placed on record the invitation as well as the visa issued by UAE which is valid for the period from 13th January, 2016 to 12th March, 2016. Be that as it may the applicant is an Indian national and had roots in the country. The applicant has earlier travelled abroad with the permission of the Court and during such travel, he had not violated any of the conditions of bail.

11. In the instant case, the crime was registered in the year

2007. Till date no chargesheet has been filed and depriving the applicant to travel abroad indefinitely, without there being any embargo would not only be prejudicial to the rights and interest of the applicant but would be violative of his fundamental rights.

12. Under the circumstances, the Writ Petition is allowed. The impugned order is quashed and set aside. The applicant is permitted to travel to Dubai from 15th January, 2016 to 25th January, 2016. The applicant shall give details of his itinerary and his address, phone number and contact details to the EOW-II, Mumbai.

13. It is submitted that the applicant has already deposited a sum of Rs.1 lac before the Addl. Sessions Judge, Greater Mumbai and the said amount is still lying in the registry of Sessions Court. The said amount shall be treated as deposit and shall stand forfeited if the applicant does not return within time.

14. Parties to act upon the authenticated copy of this order uploaded on the Internet.

(ANUJA PRABHUDESSAI, J.)