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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1287 OF 2014

Union of India	
Through Mr.V.R.Parmar	...Applicant
Versus	
Abubakar Ahmed Said Saleh and Anr.	...Respondents

**WITH
CRIMINAL APPLICATION NO.923 OF 2016
IN
CRIMINAL APPLICATION NO.1287 OF 2014**

Abubakar Ahmed Said Saleh	
Versus	
Union of India	
Through Mr.V.R.Parmar and Anr.	...Respondents

Mr.F.E.Saldanha, for the Applicant in APL No.1287 of 2014 and for the Respondent No.1 in APL No.923 of 2016.

Ms.Aisha Mohammed Zubair Ansari, for the Respondent No.1 in APL No.1287 of 2014 and for the Applicant in APL No.923 of 2016.

Ms.Anamika Malhotra, A.P.P for the Respondent-State.

***CORAM : REVATI MOHITE DERE, J.
DATE : 16th NOVEMBER, 2016***

P.C. :

1. Criminal Application No.923 of 2016 is not on board, taken on

board and heard along with Criminal Application No.1287 of 2014.

2. Heard learned counsel for the parties.

3. By this application, the applicant has impugned the order dated 15th April, 2014, passed by the Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai, below Notice No.24/N/2014 filed in RA No.353/RA/2013.

4. Learned Counsel for the Applicant-Union of India states that the respondent no.1-Abubakar Ahmed Said Saleh had preferred an application seeking permission to travel abroad i.e. to Dubai and South Africa, for a period of 2 months and that the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai, vide order dated 15th April, 2014 was pleased to allow the respondent no.1's application. He submitted that the respondent no.1, is a non-resident Indian and may not return back. He submitted that the respondent no.1, is involved in an offence under the Customs Act and has been charged for smuggling 4 gold bars weighing 1kg each. He submitted that in the alternative stringent

conditions be imposed on the respondent no.1 and that the cash security be enhanced from Rs.50,000/- to Rs.3,00,000/-.

5. Learned Counsel for the respondent no.1-Abubakar Ahmed Said Saleh submits that there is no infirmity in the impugned order. She submitted that the respondent no.1's family is residing in Dubai and that his children are studying in Dubai. She submitted that the respondent no.1 has not visited his family for the last 3 years. She submits that the case is not likely to even commence in the immediate near future and that the respondent no.1 is ready to abide by any of the conditions which may be imposed by this Court and is also ready to give an undertaking to that effect.

6. Perused the impugned order. The respondent no.1 was arrested on 20th December, 2013 on his arrival from Dubai and 4kgs of gold (4 gold bars of 1kg each) was seized from him. Pursuant thereto, the respondent no.1 was enlarged on bail by the the Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai vide order dated 6th January, 2014, on certain conditions.

7. It appears that the respondent no.1 has been regularly attending the trial Court. The possibility of the trial commencing in the near future appears to be bleak. There is no infirmity in the order granting permission to the respondent no.1 to travel abroad for a period of 2 months. Clauses A, C to G of the operative part of impugned order dated 15th April, 2014 to remain as it is. Clause B of the impugned order dated 15th April, 2014 is modified. In addition two more conditions are imposed. Accordingly, the following order is passed:-

ORDER

(i) The respondent No.1-Abubakar Ahmed Said Saleh shall now furnish cash security of Rs.3,00,000/- instead of Rs.50,000/-. As the respondent no.1 has already deposited cash of Rs.50,000/-, pursuant to the order dated 15th April, 2014, the respondent no.1 shall now furnish additional cash security of Rs.2,50,000/-. The same shall be deposited in the trial Court;

(ii) The respondent no.1-Abubakar Ahmed Said

Saleh shall also furnish his itinerary and details of the places/addresses alongwith the telephone numbers, to the Department of Customs, AIU, Mumbai, before he leaves India, pursuant to the permission granted to him, to travel abroad for 2 months;

(iii) The respondent no.1-Abubakar Ahmed Said Saleh on his return after 2 months is at liberty to apply for return of the aforesaid amount of Rs.3,00,000/- deposited by him, pursuant to the said order.

Rest of the conditions i.e. Clauses A, C to G, imposed vide order dated 15th April, 2014 to remain as it is.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. In view of the disposal of the Criminal Application No.1287 of 2014, Criminal Application No.923 of 2016 does not survive and the same is also disposed of.

10. All concerned to act on the authenticated copy of this order

REVATI MOHITE DERE, J.