

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 222 OF 2017

Mr. Stephen John Smith. .. Applicant.
Vs
The State of Maharashtra and Another. .. Respondents
—
Shri Diwakar R. Singh for the Applicant.
Shri N.B. Patil, APP for the Respondent No.1.
—

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ

DATED : 2ND MARCH 2017

PC.

1. Heard learned counsel appearing for the Applicant and the learned APP for the first Respondent. There is already a chargesheet filed against the Applicant Accused for the commission of offence under Section 379 of the Indian Penal Code. Though the prayer in this Application is for quashing the criminal proceedings based on the chargesheet, the learned counsel appearing for the Applicant is not pressing the said prayer and he is pressing only the prayer clause (c) for grant of permission to visit United Kingdom (UK) for attending his daughter's wedding on 4th March 2017. Hence, notice to the first informant is not necessary. A copy of the Invitation Card of his daughter's marriage is annexed at Exhibit-E to the Application.

2. It is not in dispute that the stolen property is only a Laptop and the same has been returned to the first informant/victim of the offence under the orders of the learned Magistrate.

3. The learned counsel appearing for the Applicant tendered for perusal of the Court an Application made before the learned Magistrate for grant of permission to travel abroad. It is pointed out that the learned Magistrate declined to pass any order on the said Application and the same has been adjourned till 2nd April 2017.

4. By way of security, the Applicant has deposited a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) with this Court by way of Demand Draft dated 1st March 2017 issued by Union Bank of India drawn in favour of Registrar of this Court. The Registry has confirmed that the Demand Draft has been deposited by the present Applicant today.

5. The Applicant has tendered an undertaking on oath of today's date i.e. 2nd March 2017. It is taken on record and marked "X1" for identification. The Applicant has disclosed his permanent address in the U.K. and he has also disclosed his Cell Phone number. He has given an undertaking that he will be available on his Cell Phone

disclosed in Paragraph 7 of the undertaking. He has also undertaken to return to India on or before 2nd April 2017. He has undertaken to appear before the learned Metropolitan Magistrate, 22nd Court at Andheri, Mumbai, on 3rd April 2017.

6. Considering the deposit of the sum of Rs.15 lakhs by way of security and considering the undertaking tendered today and considering the fact that the Applicant's daughter is getting married in UK on 4th March 2017, we propose to permit the Applicant to travel abroad. However, Look Out Notice cannot be quashed and it remains suspended till 2nd April 2017.

7. Accordingly, we pass the following order:

ORDER :

- (a) Permission is granted to the Applicant to travel United Kingdom on 3rd March 2017 subject to condition that the Applicant shall return to India on or before 2nd April 2017 and shall appear before the learned Metropolitan Magistrate, 22nd Court at Andheri, Mumbai on 3rd April 2017;
- (b) The undertaking of the Applicant marked as "X1" for identification is accepted;

- (c) The Look Out Notice issued against the Applicant will remain suspended only till 2nd April 2017;
- (d) We make it clear that in the event, any breach is committed by the Applicant of the undertaking marked "X1" for identification and the order of this Court, the sum of Rs.15 lakhs deposited by the Applicant with this Court is liable to be forfeited;
- (e) The sum of Rs.15 lakhs deposited with this Court shall be invested in any nationalized bank for the time being for a minimum period of 45 days;
- (f) The Petition is disposed of on above terms;
- (g) For reporting compliance, the Petition shall be listed under the caption of "Directions" on 4th April 2017;
- (h) All concerned to act upon an authenticated copy of this judgment and order.