

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 210 OF 2017
IN
CRIMINAL WRIT PETITION NO. 2013 OF 2016

Mr. Nazir MussaApplicant

versus

1. The State of Maharashtra

2. Mr. Navnit MehtaRespondents

Mr. Niteen Pradhan along with Mr. Ashish Sawant, Mr.Sajid Mohamed, Ms. Dipika Batheja and Mr. Ramsingh Rajput i/b. Agrud Partners, advocates for the applicant.

Mr. A. R. Kapadnis, APP for the State.

Mr. Vibhav Krishna along with Mr. Karan Bhosale, Mr. B. R. Mourya and Mr. Devang Lakhotia i/b. Juris Consillis, advocates for the respondent No.2.

Mr. Sunil Kale, PI, Tilak Nagar Police Station is present.

**CORAM : RANJIT MORE &
SMT.SADHANA JADHAV, JJ.**

DATE : 22nd AUGUST, 2017.

P. C. :

Heard Mr. Pradhan, learned counsel for the applicant, Mr. Krishna, learned counsel for the respondent No.2 and Mr. Kapadnis, learned APP for the State.

2. By this application, the applicant is seeking permission to travel to the United Kingdom on the terms and conditions as this Hon'ble Court may deem fit.

3. This application was placed for order before this Court on

4th August, 2017. On that day, the learned APP, on instructions, made a statement that the investigation into the subject FIR would be completed within a period of four weeks and an appropriate report would be filed before the concerned Court. On the basis of the said statement, the application was adjourned to 11th September, 2017. On 21st August, 2017, the applicant moved a praecipe requesting this Court to take the matter on board on the ground that the applicant's mother-in-law has expired on 20th August, 2017. We, accordingly, granted leave and heard the learned counsel appearing for the respective parties.

4. Mr. Pradhan, learned counsel for the applicant, tendered a copy of the medical certificate of cause of death of Roshan Khanu Vasrani, which is received by the applicant from Amin Mussa. The same is taken on record and marked as Article "X" for the purpose of identification. Mr. Pradhan submitted that Roshan Khanu Vasrani was the mother-in-law of the applicant. He also submitted that the applicant's wife is the only daughter of the deceased Roshan Khanu Vasrani. He further submitted that the deceased Roshan Khanu Vasrani was staying with the applicant and his wife as a member of the family. Mr. Pradhan also submitted that except the applicant, there is no male member in the family. He submitted that the funeral of the deceased Roshan Khanu Vasrani is scheduled to take place tomorrow i.e. on 23rd August, 2017.

5. Mr. Krishna, learned counsel for the respondent No.2, opposed this application on various grounds. He submitted that the ground for the purpose of travel is rendered infructuous since the applicant's mother-in-law has expired. Mr. Krishna invited our attention to the earlier orders passed by this Court rejecting similar requests. He expressed apprehension that the applicant would not return back to India.

6. Mr. Kapadnis, learned APP, also opposed the application on similar grounds.

7. Earlier, the Single Judge of this Court permitted the applicant to travel abroad on furnishing cash deposit of Rs.5,00,000/-. This order was challenged by the respondent No.2 in Supreme Court. The Supreme Court modified the order of the learned Single Judge and allowed the applicant to travel abroad on furnishing cash deposit of Rs.75,00,000/-. The applicant thereafter returned back and the Supreme Court allowed him to withdraw the amount of Rs.80,00,000/-. The Division Bench of this Court, thereafter, did not permit the applicant to travel abroad. However, the Apex Court in Petition for Special Leave to Appeal No. 6993 of 2016 by order dated 20th September, 2016, permitted the petitioner to travel abroad only with the prior permission of the High Court.

8. The present application is filed on the ground of illness of the applicant's mother-in-law. The said mother-in-law, as it is evident from the medical certificate, has expired on 20th August, 2017. Her funeral is scheduled to take place on 22nd August, 2017. The applicant is the only person who can perform the last rites. In such circumstances on humanitarian ground, we are inclined to permit the applicant to travel abroad. The criminal application is, accordingly, disposed off by passing the following order :

(a) The application is allowed. The applicant is, accordingly permitted to travel to the United Kingdom for a period of 30 days on the following terms and conditions :

(i) The applicant shall deposit an amount of Rs.25,00,000/- within a period of one week through his solicitor with the Registry of this Court.

(ii) The applicant shall report to the Indian Embassy at London once a week.

(iii) The applicant shall return back to India on or before 25th September, 2017 and on the same day, report to the Investigating Officer of the subject crime.

(iv) The Investigating Officer of the subject MECR No. 1 of 2015 registered with Tilak Nagar Police Station shall hand over the applicant's passport forthwith in order to enable him to travel to the United Kingdom.

9. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

10. Mr. Krishna, learned counsel for the respondent No.2, at this stage, seeks stay of this order. Since we have permitted the applicant to travel abroad on humanitarian ground and that too, to attend the funeral of his mother-in-law, we refuse to grant stay.

(SMT. SADHANA JADHAV, J.)

[RANJIT MORE, J.]