

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 435 OF 2017

IN

WRIT PETITION No. 2013 OF 2016

Nazir Mussa.

..Applicant.

Versus

State of Maharashtra & Another.

..Respondents.

WITH

CRIMINAL APPLICATION No. 436 OF 2017

IN

WRIT PETITION No. 2014 OF 2016

Nazir Mussa.

..Applicant.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Niteen Pradhan, Dipika Batheja and Ramsing Rajput i/b Agrud Partners for the Applicant.

Mr. Vaibha Krishna, Mr. B. R. Maurya, Devang Lakhota i/b Juris Consillis for Respondent No. 2.

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

Coram : RANJIT MORE &
PRAKASH D. NAIK, JJ.

Date : **October 3, 2017.**

P. C. :

1. Heard Mr. Pradhan, the learned Counsel for the Applicant, Mr. Krishna, the learned Counsel for Respondent No. 2 and Mr. Kapadnis, the learned APP for the State.

2. The applications are filed for permission to travel to Canada and United Kingdom. Permission is sought on the ground that the Applicant's brother, residing at Canada, expired on 29th September

2017. In support of his contention, the Applicant has annexed copy of the death certificate of his brother–Aminmohamed Mussa at page 47 in, Crim.Appli.No.435 of 2017. Mr.Pradhan, learned Counsel for the Applicant submitted that funeral of the Applicant's brother is kept on 5th October 2017.

3. The application is opposed by Respondent No.2. Mr. Krishna, the learned Counsel for Respondent No.2 submitted that original accused no.2 is still absconding and is believed to be in Canada. He also submitted that though the Applicant had complied with the order dated 22nd August 2017, the Applicant did not deposit his passport on his return to India.

4. The learned APP opposed the application on the ground that earlier the Applicant was permitted to travel abroad, however, he did not come back to India within time.

5. Admittedly, the Applicant's is a British National. The subject FIR is registered on the basis of order made under section 156(3) of the Code of Criminal Procedure, 1973. Earlier, the Applicant had filed a criminal application bearing No.210 of 2017 in Writ Petition No.2013 of 2016 for permission to travel to United Kingdom on the ground that his mother-in-law had expired. The said application was disposed of by the order dated 22nd August 2017 by passing following operative 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.”

6. Admittedly, the Applicant has complied with the conditions laid down in the order dated 22nd August 2017 passed in Criminal Application No. 210 of 2017 inasmuch as he has deposited a sum of Rs.25 lakhs and he has returned back to India on 24th September 2017. So far as the grievance of Respondent No.2 is concerned, it seems that the Applicant did not deposit the passport on his return as in the above order there was no direction to that effect.

7. In the light of above and on humanitarian ground in order to enable the Applicant to attend the funeral of his brother, we allow these applications. The Applicant is permitted to travel to Canada for the period of 35 days on the following terms and conditions :

- (a) The Applicant shall report to the Indian

Embassy at Canada once a week.

(b) The Applicant shall return back to India on or before 8th of November 2017 and on the same day report to the Investigating Officer of the subject crime and deposit his passport with the Investigating Officer.

(c) The amount of Rs.25 lakhs deposited as condition precedent in compliance with the order dated 22nd August 2017 passed in Criminal Application No. 210 of 2017 shall be deemed to have been deposited in these applications.

8. Applications stand disposed of.

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]