

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 458 OF 2017

IN

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. 459 OF 2017

IN

CRIMINAL APPLICATION No. 436 OF 2017

IN

WRIT PETITION No. 2014 OF 2016

Nazir Mussa. ..Applicant.

Versus

State of Maharashtra & Another. ..Respondents.

Ms. Dipika Batheja and Ramsing Rajput i/b Agrud Partners for the Applicant.

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

Ms. S. D. Shinde, APP for the State.

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

Date : **October 13, 2017.**

P. C. :

1. Heard the learned Counsel for the Applicant, the learned Counsel for Respondent No.2 and the learned APP for the State. By the order dated 3rd October 2017 we permitted the Applicant to travel to Canada for the period of 35 days in order to enable him to attend

the funeral of his brother on following 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.

2. The learned Counsel for the Applicant submitted that the Applicant has accordingly on 3rd October 2017 itself went to Canada and attended the funeral of his brother on 5th October 2017. The learned Counsel for the Applicant submitted that the Applicant learnt that his brother's last rites will be conducted in the United Kingdom where he was permanently residing with his family before this death in Canada. Therefore, present applications are preferred for modification of the order dated 3rd October 2017 seeking permission to travel to United Kingdom within the said period of 35 days. The learned Counsel for Respondent No. 2 vehemently opposed these applications. He submitted that the Applicant initially applied to travel to Canada and England, however, permission was granted to him to travel to Canada only. Thus, in fact permission to travel to England was rejected and therefore present applications are not

maintainable. He further submitted that applications are barred under the provisions of section 362 of the Code of Criminal Procedure, 1973 .

3. The learned APP having taken instructions from the officer concerned, who is present in the Court, states that the Investigating Officer has no objection to the Applicant's travelling to United Kingdom within the stipulated time as per the order dated 3rd October 2017 provided he reports to Indian Embassy in London during his stay in United Kingdom.

4. Since the last rites of Applicant's brother will be performed in United Kingdom where he was residing along with his family prior to his death, we are inclined to grant these applications on humanitarian ground especially when the learned Counsel for the Applicant submitted that the Applicant will abide by the conditions imposed upon him by the order dated 3rd October 2017.

5. The applications are accordingly disposed of by passing following order :

The Applicant is permitted to travel to United Kingdom

during the period of 35 days granted by this Court vide order dated 3rd October 2017. The Applicant shall, however, report to Indian Embassy at London once in a week. The Applicant shall return back to India on or before 8th November 2017 and deposit his passport with the Investigating Officer as per the order dated 3rd October 2017.

4. All concerned shall act upon the authenticated copy of this order.

[PRAKASH D. NAIK, J.]

[RANJIT MORE, J.]