

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.570 OF 2017

AKASH RAJKUMAR VERMA @ BABLI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.Sandeep Sherkhane, Advocate for the Applicant.

Mr.R.M.Pethe, APP for the Respondent – State.

PS.I. Shivaji Patil, Santacruz Police Station, present in court.

CORAM : A. M. BADAR, J.

DATE : 31st OCTOBER 2017

P.C. :

1 The learned advocate appearing for the applicant / accused seeks permission to convert the application into criminal revision petition with further permission to place on record copy of the order dated 12th October 2017 passed by the learned Special Judge under the POCSO Act. Permission, as prayed, is granted and the instant application is considered as revision petition.

2 Heard the learned advocate appearing for the applicant / accused. He submitted that the applicant / accused has been appointed as General Steward in Princess Cruise Lines Limited and he is required to travel abroad and to be away from India till 18th June 2018. He drew my attention to the charge-sheet and submitted that the applicant / accused is a young person anxious to settle in life by joining employment. The learned advocate further submitted that the applicant / accused will not claim any prejudice in conducting the trial in his absence. The learned advocate further submitted that the applicant / accused will answer the charge through his advocate and he will not dispute the identity. He will not object for recording evidence in his absence. He, therefore, prays that the impugned order dated 12th October 2017 be quashed and set aside and the applicant / accused be granted permission to travel abroad for the stated period.

3 The learned APP opposed the application by contending that the offence is serious and the applicant / accused

may not be available to receive the sentence, if any, imposed on him, ultimately on conclusion of the trial.

4 I have carefully considered the submissions so advanced and also perused the record made available including the charge-sheet as well as the impugned order. It is seen that the applicant / accused is appointed as General Steward in Princess Cruise Lines and he has to accompany the ship for the purpose of his employment for the period from 5th November 2017 to 18th June 2018.

5 The statement made by the learned advocate appearing for the applicant / accused, on behalf of the applicant / accused, that the applicant / accused will answer the charge through his advocate is accepted. Similarly, the statement made by the learned advocate for the applicant / accused, on instructions of the applicant / accused, that the applicant / accused shall not claim any prejudice for recording evidence in his absence and he will not dispute the identity, is also accepted.

6 The applicant is accused in Crime No.376 of 2017 registered with Santacruz Police Station for offences punishable under Sections 354A, 354D, 324, 504 of the Indian Penal Code (IPC) read with Sections 8 and 12 of the Protection of Children from Sexual Offences Act (POCSO Act). Perusal of the statement of the minor female victim shows that allegations against the present applicant / accused are to the effect that when she was returning to her house, the applicant / accused pulled her hair. Subsequently, when father of the minor female victim questioned the applicant / accused, the applicant / accused assaulted him.

7 The applicant / accused was released on bail by the learned Additional Sessions Judge on the condition that he shall not leave Maharashtra without permission of the court. The applicant / accused accordingly applied for permission to travel abroad but his application came to be rejected by the impugned order dated 12th October 2017 with a reason that the applicant / accused can get his trial expedited and finished.

8 In my considered opinion, the view so expressed by the learned trial court is not in consonance with the established procedure. The charge was not framed. Material witnesses could have been summoned after framing of the charge and the learned trial court ought not to have expected that the trial would finish within a period of one month. The learned trial court missed the fact that for Diwali Vacation the courts were closed. Hence, the finding of the learned court below to the effect that the trial can be expedited and can be concluded within one month and therefore, the applicant / accused is not entitled for permission to travel abroad is totally arbitrary.

9 In the result, the impugned order dated 12th October 2017 cannot be sustained. The applicant / accused, being appointed as General Steward in Princess Crews Lines Limited can be permitted to travel abroad up to 18th June 2018 on the basis of the statement made by his learned advocate on his behalf and accepted by this court. Therefore the order :

ORDER

- i) The revision petition is allowed.
- ii) The impugned order dated 12th October 2017 passed in Miscellaneous Application No.1253 of 2017 in C.R.No.376 of 2017 is quashed and set aside.
- iii) The applicant is permitted to travel abroad from 5th November 2017 to 18th June 2018 on the condition that he will furnish additional cash security of Rs.25,000/- before the learned Special Judge under the POCSO Act, Greater Bombay, Mumbai.
- iv) If the learned trial court is in a position to commence the trial, it may do so according to provisions of law in the wake of the statement of the applicant accepted by this court.
- v) If the trial does not start till 18th June 2018, then the applicant should attend the trial court, as and when he is required by the court to attend and to face the trial of offences alleged against him.

(A. M. BADAR, J.)