

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4415 OF 2017

Yasir Ishlam Naiyyar

....Petitioner

Versus

The State of Maharashtra

....Respondent

Mr. Laxman R. Shahapur for the petitioner.

Mrs. S. S. Kaushik, APP for the State.

Mr. Vikram Chavan, API, DCB, CID, Crime Intelligence Unit
(Operation), Mumbai present in Court.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 28th NOVEMBER, 2017

P.C. :

1. By this petition, the petitioner herein has sought permission to allow him to travel abroad i.e. to Qatar for employment till 31st December, 2018.

2. The petitioner is facing trial for offences punishable under Sections 465, 471 and 420 r/w. Section 34 of the Indian Penal Code, 4, 20 of the Indian Telegraph Act, 1855 and 3, 6 of Indian Wireless Telegraphy Act, 1933.

3. The petitioner was arrested on 12th January, 2017. He was released on 23rd January, 2017 by the Additional Chief Metropolitan Magistrate, Esplanade, Mumbai and one of the conditions of bail was that the applicant will not leave the jurisdiction of the Court without prior permission of the Court.

4. In view of the said condition, the petitioner filed a Miscellaneous Application No.519 of 2017 seeking permission to travel abroad. The said application was dismissed by the learned Additional Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai by order dated 20th July, 2017. The revision application filed by the petitioner against the said order has been dismissed by order dated 12th October, 2017. Hence this petition.

5. Heard Mr. Laxman R. Shahapur, learned counsel for the petitioner and Mrs. S.S. Kaushik, learned APP for the State.

6. Mrs. S.S. Kaushik, learned APP has opposed the petition mainly on the ground that the petitioner herein is involved in cheating Vodafone Company to the tune of Rs.1 crore and 70 lakhs. She has further submitted that the petitioner is also facing trial in another case registered at Saharanpur, Uttar Pradesh. She submits that if the petitioner is allowed to travel abroad, he will commit similar crimes and he may not return to India and will not be available for trial.

7. It is submitted that the charge sheet has already been filed and the case is listed on 27th February, 2018 for framing of charge. Mr. Laxman R. Shahapur, learned counsel for the petitioner, under instructions, stated that the petitioner will return to India on 27th February, 2018 for answering the charge. He also submits that the petitioner will seek necessary permission from the court at Saharanpur, Uttar Pradesh wherein the petitioner is facing trial. Statements are accepted.

8. The petitioner is seeking permission to travel abroad to join his workplace. The records reveal that the petitioner has been given an offer of appointment. The petitioner has also furnished to this Court his office address as well the name of the employer and his contact number. The petitioner has also given his local address and his contact number as well as the contact number of his father. He has undertaken to furnish his residential address of Qatar within fifteen days from joining the work place. Said undertaking is taken on record and marked 'X' for identification. Statements made in the said undertaking are accepted.

9. The charge sheet has been recently filed and there is no possibility of the trial being concluded in the next couple of years. Declining the application will result in depriving the petitioner of availing of the job opportunity and thus jeopardies the source of his livelihood.

10. The records reveal that earlier the applicant was released on furnishing personal bonds of Rs.50,000/- with one or more sureties to the like amount. The apprehension of the prosecution that the petitioner may not be available for trial can be alleviated by imposing stringent conditions and by increasing the bond amount to Rs.1,00,000/- (Rupees One Lakh) and further directing him to deposit cash surety of Rs.3,00,000/- (Rupees Three Lakhs), which shall stand forfeited on violation of the undertaking.

11. Under the circumstances, the writ petition is allowed. The petitioner is permitted to travel to Qatar subject to the following conditions :-

(i) In addition to the personal bonds as well as surety bonds earlier furnished, the petitioner shall furnish bonds of Rs.50,000/- (Rupees Fifty Thousand) with one or two sureties to the like amount to the satisfaction of Additional Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai.

(ii) The petitioner shall deposit before the trial court an amount of Rs.3,00,000/- (Rupees Three Lakhs) as cash security. The said amount shall stand forfeited in the event the petitioner violates any of the conditions or undertaking / statements made before this Court.

(iii) The petitioner shall appear before the trial court on 27th February, 2018 or as and when directed by the trial court or appellate court.

(SMT. ANUJA PRABHUDESSAI, J.)