

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2486 OF 2017

Riyaz Abdul Rashid Nagpurwala

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Taraq Sayed for the applicant.

Mr.J.S. Lohokare, APP for the State.

Mr.Vijay Kadam, API, BKC Police Station.

CORAM: A.M. BADAR, J.

DATED: 24th NOVEMBER 2017

PC:-

1. The applicant/accused in Crime No.I-134 of 2017 registered with BKC Police Station, Mumbai for the offences punishable under Sections 419, 420, 465, 468, 471, 120(b) and 370 of the Indian Penal Code at the instance of Assistant Regional Security Officer, U.S. Consulate, Mumbai by this application is seeking his release on bail during the pendency of the trial.

2. The learned advocate appearing for the applicant relying on the charge-sheet filed by the prosecuting agencies

argued that accused Nos.2 to 4 are already released on bail. He argued that the charge-sheet does not disclose any evidence to the effect that the applicant had procured minor children for trafficking them to U.S.A. The accused with greater role namely, Azhar Qureshi is already released on bail.

3. The learned APP opposed the application by contending that as the applicant is in travel business he was aware as to how to obtain visa and his role is reflected from the statement of Shruti Shaha.

4. I have carefully considered the rival submissions and also perused the charge-sheet. The Assistant Regional Security officer of the U.S. Consulate reported to the investigators that during the course of her interview with the office of the U.S. Consulate, the accused No.1 Nirmala has stated that she is travelling to U.S.A with her two minor children. For the children below 14 years of age there is no procedure of interview. Suspecting so foul play U.S. Consulate checked its

record and found that on earlier occasion, accused No.1 Nirmala had been to U.S.A but returned back without being accompanied by those two children. The first informant reported that impostor children were in the process of being trafficked to the U.S.A by accused persons Nirmala and Azahar. During the course of investigation, the present applicant is arraigned as an accused. Statement of Shruti shows that the present applicant as well as Azhar-husband of accused No.1 Nirmala were in service of travel company named Prime Focus World Private Limited. Role attributed to the present applicant is seen from the charge-sheet is to the effect that he got returned ticket of accused No.1 Nirmala booked through " Make my trip company" and paid the charges thereof through his credit card. The prosecution alleged that the present applicant has planned the commission of the crime in question.

5. Prima facie it is seen that the present applicant had not procured minor children, nor in past he had been to U.S.A

with minor children. He is in a travel business and had booked returned ticket of accused No. 1 Nirmala. Except Nirmala rest of the co-accused are reported to be released on bail.

6. In this view of the matter, on completion of the investigation, I am of the opinion that further pre-trial detention of the present applicant is not warranted. As such the following order.

ORDER

- i) The application is allowed.
- ii) The applicant/accused in Crime No.I-134 of 2017 registered with BKC Police Station, Mumbai for the offences punishable under Sections 419, 420, 465, 468, 471, 120(b) and 370 of the Indian Penal Code be released on bail on executing P.R bond of Rs. 30,000/- and on furnishing surety in the like amount.

- iii) As a condition of this order the applicant/accused should not tamper with the prosecution evidence.
- iv) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer. and he should not extend.
- v) He should not leave India without permission of the Trial Court.
- vi) The applicant should deposit his passport with the investigation officer.
- vii) On request of the learned advocate for the applicant initially for a period of 6 weeks the applicant be released on furnishing cash security of Rs. 30,000/- apart from executing P.R bond of Rs.30,000/-.
- viii) The application stands disposed of accordingly.

(A.M. BADAR, J)