

Rane

* 1/4 * WP-4721-2015 (SR.917)
Friday, 29.9.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4721 OF 2015

Irfan Mohamed Ismail Molvi
Through, Constituted Attorney
Mohammed Ismail Din MohaPetitioner

V/s.
Union of India and Ors.Respondents

* * * * *

Mr. Ayaz Khan, Advocate for the petitioner.

Mrs. A.S. Pai, Advocate for respondent no.1.

Mr. Natarajan Narayanswamy, Advocate for respondent
no.2.

Mrs. S.V. Sonawane, APP for State.

CORAM :- R.M. SAVANT &

SANDEEP K. SHINDE, JJ.

DATE :- 29TH SEPTEMBER, 2017.

P.C. :-

1. The writ jurisdiction of this Court is invoked for
seeking the following reliefs :-

“That an appropriate writ or direction be issued to the respondents to issue an appropriate Indian Visa to the petitioner, quashed and set aside the order of cancellation of the Overseas Citizen of India (OCI Card A 1500467) which is in the name of the petitioner.

2. The said reliefs have been founded on the premises that, if the petitioner is not permitted to go to India, then the petitioner would be faced with the rigors of the order dated 25th February, 2015 passed by the Learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai which is followed by the notice dated 21st September, 2015 which is issued pursuant to the application dated 9th March, 2015 for production of the bank guarantee of Rs.3,00,000/- which was furnished by the petitioner. The relevant excerpt of the said notice is reproduced hereinunder for the sake of ready reference.

“The validity of Bank Guarantee was upto 3-6-2015 & claim if any to be lodged within 1 year. Hence, it is also not known whether the accused returned to India or not from U.K.

Hence, issue notice to the accused to appear before this court on 28/09/2015 so as to verify his return else Bank Guarantee to be invoked”.

. You are therefore, directed to comply the abovesaid order & attend this court on 28/09/2015 at 11.00 a.m.”

3. Hence, the notice contemplates that the petitioner who is an accused, has to appear before the said Court on 28th September, 2015 or else the bank guarantee would stand invoked. In the above petition, an interim relief is operating in favour of the petitioner, by virtue of the order dated 6th March, 2017 passed by a Division Bench of this Court, by which the proceedings pursuant to the Notice No. 14/N/2015 have been stayed. The issue of whether the petitioner's OCI Card is to be renewed or not, is in our view, a larger issue which can be considered in appropriate proceedings. However, insofar as, the notice issued to the petitioner is concerned, the petitioner has filed an application, which is annexed to the above petition at Exhibit-G, which application has

been filed by the petitioner on 20th August, 2015 in the Court of the Learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai. The said Application has been filed for relaxation of the condition which was imposed by the order dated 25th February, 2015 passed by the said Court. Since the said application, according to the Learned Counsel for the petitioner, is yet pending and since otherwise the petitioner would be faced with the rigors of the notice. The Learned Additional Chief Metropolitan Magistrate is directed to decide the said application latest by 30th November, 2017. The Learned Counsel Mr. Natarajan, appearing for the respondent no.1, i.e. the Customs Authorities and the Learned APP, Mrs. Pai, for the Union of India states that the parties would co-operate in the early disposal of the said application. With the aforesaid directions, the Writ Petition is disposed of.

(SANDEEP K. SHINDE, J)**(R.M. SAVANT, J)**