

Vidya Amin.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 637 OF 2018
WITH
CRIMINAL WRIT PETITION No. 638 OF 2018**

Haresh Gurbux Doulatani Partner of
M/s. Shree Tirupati Greenfield ... Petitioner
VS.
Kamal Narayandas Khandadia
through P.O.A. Mrs. Shraddha Kamal
Khandhadia & Anr. ... Respondents

**WITH
CRIMINAL WRIT PETITION NO. 639 OF 2018**

Haresh Gurbux Doulatani Partner of
M/s. Shree Tirupati Greenfield ... Petitioner
VS.
Bharat Jagmohan Mehra, through P.O.A.
Mrs. Shraddha Kamal Khandhadia & Anr. ... Respondents

CRIMINAL WRIT PETITION NO. 640 OF 2018

Haresh Gurbux Doulatani Partner of
M/s. Shree Tirupati Greenfield ... Petitioner
VS.
Mrs. Shraddha Kamal Khandhadia & Anr. ... Respondents

Ms. Krupali Rajani a/w. Aditya Andhorikar i/b. Jaideep Thakker,
Advocate for the petitioner in all the Writ Petitions.
Mr. Shrinath K. Dubey, Advocate for respondent no. 1 in all the
Writ Petitions.
Mr. A.R. Patil, APP for respondent no. 2/State in WP/637 of 2018.
Mrs. Veera Shinde, APP for respondent no. 2/State in
WP/638/2018, WP/639/2018, WP/640/2018.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 4th December, 2018**

P.C. :

Rule. Rule made returnable forthwith. By consent, all these Writ Petitions are heard together and decided finally at the stage of admission.

2. These Writ Petitions are filed by the petitioner challenging the order dated 20th February, 2017 passed by the learned Metropolitan Magistrate, 53rd Court, Mulund, Mumbai. The petitioner/accused is facing prosecution under section 138 of Negotiable Instruments Act in all the four criminal cases wherein respondent No. 1 in these cases are the complainants. During the trial, the complainants moved applications requesting the Court to direct the applicant/petitioner to take permission of the Court whenever he will travel abroad. The learned Metropolitan Magistrate by the order dated 20th February, 2017 allowed the Application and put condition that accused No. 2 is directed to seek prior permission of this Court whenever he visit abroad. The said order is under challenge.

3. The learned counsel for the petitioner/accused submitted that the petitioner/accused is a builder and having business of construction in Dubai. His construction work of building is going on

in Dubai where 100 workers are employed by him. He needs to visit Dubai twice in a month or by monthly. Whenever the petitioner moves application before the Metropolitan Magistrate seeking permission, such application is always opposed vehemently and then considerable time is consumed and though the permission is given by the Metropolitan Magistrate, it takes time for the petitioner/accused to obtain visa and make further arrangements and his visit is delayed. The learned counsel submitted that the petitioner/accused undertakes to be available before the Court whenever he is required. His counsel is regularly attending the Court.

4. The learned counsel for the respondent no. 1, while opposing these Petitions, has submitted that the petitioner/accused did not remain present and therefore, non-bailable warrants were issued against him during the trial. He further submitted that the petitioner/accused, as a builder, has deceived 8 persons, who have filed prosecution against the petitioner under section 138 of Negotiable Instruments Act.

5. Considered the submissions. The order of issuance of said non-bailable warrant in the present proceedings is not produced.

As construction work is going on, as submitted by the learned counsel for the petitioner-accused, and as there is no incident of default, I modify the order of the trial Court as follows:

- (i) The petitioner/accused is not required to take permission of the Metropolitan Magistrate Court for each and every visit to Dubai but the permission is to be obtained after every four months, between 1st to 10th day of the month;
- (ii) The tentative programme of the visit to Dubai can be presented before the Magistrate Court;
- (iii) For such visits, a permanent security deposit can be taken by the learned Magistrate so that for each and every visit, there is no need to return the deposit and again take it afresh;
- (iv) The petitioner/accused shall furnish the address of his construction site at Dubai to the Metropolitan Magistrate Court.

6. The Writ Petitions are disposed of.

(MRIDULA BHATKAR, J.)