

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1706 OF 2018

Rajesh Madhukar Pokharkar, Age 41 years,
Occ.Business, At 54/901, Seawood Estate,
Phase-II, Sector-54, 56 and 58,
Nerul, Navi Mumbai

Petitioner

versus

The State of Maharashtra

Respondent

Mr.Mahesh Vishwakarma i/by Vishwakarma & Associates for
petitioner.

Mrs.J.S.Jain, APP, for State.

Mr.Nandkishor N. Kupte, Assistant Conservator of forests, Panvel,
present.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th June 2018

PC :

1. This writ petition challenges the conditions imposed by the Sessions Court while permitting the petitioner to travel abroad vide order dated 20th February 2017. The petitioner is being prosecuted for the offence u/s 379 read with Section 120B of Indian Penal Code and under the provisions of Indian Forest Act. The charge sheet has been filed and the proceedings are pending before the Court of Judicial Magistrate, First Class, Panvel.

2. The petitioner was permitted to travel abroad on several occasions. Prior to filing of charge sheet the petitioner had applied for bail before the Court of Sessions at Alibag. While granting bail certain conditions were imposed on petitioner by order dated 3rd January 2014. The applicant was directed to attend Range Forest

Office, Panvel, remain present before the investigating officer as and when required and not to leave State of Maharashtra without prior permission of Court. The order dated 3rd January 2014 came to be modified. The modified order was passed on 13th June 2014 relaxing condition of attendance of applicant to Range Forest Office until further order by directing him to remain present as and when required and the condition not to leave State of Maharashtra without permission of Court, was relaxed by directing the applicant to travel within territory of India by giving pre-intimation to concerned investigating officer. The conditions were further modified by order dated 18th January 2016 by permitting the applicant to travel abroad from January-2016 to June-2016 by giving pre-intimation about his programme, stay, residence etc at place of abroad to concerned investigating officer. Subsequently by order dated 27th July 2016, the applicant was permitted to travel abroad from July-2016 to December-2016 with similar condition imposed in order dated 18th January 2016. The applicant preferred application on 11th January 2017 seeking modification of condition in order dated 27th July 2016 permitting him to travel outside India or within any part of India. The Court modified the said order by order dated 20th February 2017. The order dated 20th February 2017 passed by Sessions Court, Raigad-Alibag reads as follows :

“Perused report. The applicant is allowed to go out of India for his business purpose. The applicant to inform the Investigating Officer his programme of foreign tour in detail with all dates, address of his stay in foreign country. The applicant to give application before Magistrate, Panvel for his exemption on the date when he is out of India. The applicant to give his programme of foreign tour in India and address of his stay to this Court. The applicant to remain present before the I.O and this

Court, J.M.F.C, Panvel and I.O before he go to foreign country and to remain present before Magistrate, Panvel and I.O after he returns from foreign country. The applicant to remain present in RCC No.451/2014 on next date whenever it may be before going to foreign country or remain before the Magistrate by taking matter on board.”

3. By above order dated 20th February 2017, the conditions for travel have been amended and the petitioner is allowed to go out of India. Taking into consideration that petitioner has been permitted to travel abroad and on earlier occasions also he was allowed to travel abroad, several conditions imposed by the Sessions Court vide order dated 20th February 2018 may not be necessary. The charge sheet has been filed in the case and proceedings are pending before the Court of JMFC, Panvel.

4. In that view of the matter, the order of Sessions Court dated 20th February 2018 is modified as follows :

ORDER

- (i) Before travelling abroad, the petitioner to inform the investigating officer in writing the programme, such as dates of travel, place of travel, address where he would be residing and the contact numbers during the period of his stay;
- (ii) The applicant shall also furnish the details i.e. phone numbers, mobile numbers, e-mail address/ID to the investigating officer and the person to whom the investigating officer should approach in his absence;
- (iii) For his absence before the Trial Court, the petitioner shall file an application for exemption through his advocate whenever he is on business tour out of India and/or within India;

(iv) After the petitioner returns from abroad, he shall intimate the same to the investigating officer and appear before next date of hearing before the Trial Court.

5. With the above directions, the writ petition is disposed off.

(PRAKASH D. NAIK, J.)

MST