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

CRIMINAL APPLICATION NO.661 OF 2018
IN
CRIMINAL APPLICATION NO.3057 OF 2010

Suleman Haji Yusuf Bhuta ...Applicant
Versus
State of Maharashtra and Anr. ...Respondents

Mr.P.A.Bhangale, for the Applicant.

Mrs.P.P.Shinde, A.P.P for the Respondent-State.

Mr.D.P.Singh, for the Respondent No.2.

**CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.**

DATE : 27th JULY, 2018

P.C. :

1. The above Criminal Application has been filed by the Applicant seeking permission to apply for passport and that the Applicant be permitted to depart from India as per Notification G.S.R. 570(E) dated 25th August, 1993 issued by the Ministry of External Affairs, within one year from the date of issuance of passport on such terms and conditions as this Hon'ble Court deems fit.

2. The above Criminal Application has been filed in the above Criminal Application No.3057 of 2010 which is pending hearing and final disposal. The said Criminal Application has been filed for quashing of the FIR being C.R.No.627 of 2008 registered with the Sahar Police Station, Mumbai, for the offences punishable under Sections 465, 468, 471, 420 r/w 34 of the Indian Penal Code. The cause for registration of the said FIR was the suspicion as regards the Visa of Swaziland which is endorsed on the passport of the Applicant.

3. The gravamen of the allegation is that the Applicant had assisted in getting the Visa of Swaziland for one Ayazbhai Patel. However, the communication from the Government of Swaziland to the effect that the Visa is authentic, is annexed to the above Criminal Application as Exhibit – 'B'.

4. The challenge to the FIR is founded on the fact that no overt act is attributed to the Applicant insofar as the said Visa of Swaziland is concerned. The above Criminal Application No.3057 of 2010 came to be admitted by a learned Single Judge of this Court on 29th July, 2010 and the

Rule was made returnable after 12 weeks. The above Criminal Application as indicated above is pending hearing and final disposal. The above Criminal Application for the relief which we have adverted to herein above has been filed founded on the fact that the Applicant who is 70 years old is suffering from Cancer and would like to go on a pilgrimage to Haj, within one year from the issuance of the passport.

5. We are informed that there is no other criminal case against the Applicant save an except the case which has been registered containing the allegation in respect of the Visa of Swaziland.

6. The learned counsel appearing for the Passport Authorities submits to the orders of the Court and states that appropriate orders be passed by this Court, having regard to the Notification of the Central Government being G.S.R. 570(E) dated 25th August, 1993.

7. Having regard to the said Notification and considering the fact that the Applicant is desirous of going on a pilgrimage to Haj, we deem it just and proper to allow the above Criminal Application in terms of prayer

clause (a). However, we circumscribe the said prayer by directing that the passport be issued to the Applicant for a period of two years. However, the same would be on the condition that the Applicant submits his itinerary of the Haj pilgrimage to the concerned Police Station, atleast a month prior to his departure. The same thereafter be also filed in this Court in Criminal Application No.3057 of 2010, by way of an affidavit.

8. The above Criminal Application No.661 of 2018 is accordingly disposed of.

9. All concerned parties to act upon an ordinary copy of the instant order duly authenticated by the Court Associate/Sheristedar.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)