

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

CRIMINAL WRIT PETITION NO.2662 OF 2018

Ahtesham Salim Khan

.. Petitioner

Vs.

Sr.Police Inspector & Anr.

.. Respondents

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Mr.Mateen Shaikh a/w. Mr.Shrinivas Kshirsagar, Mr.J. Shaikh
Sajid Qureshi, Advocate for the Petitioner.
Mr.M.R. Tidke, APP for the Respondent – State.
Mr.Kishor Pawar, API, Khar Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 20, 2018.

P.C. :

The petitioner, by this petition seeking permission to travel abroad. The petitioner is prosecuted for the offences punishable under Section 376, 380, 323, 504 and 506 of IPC. The offence was registered vide C.R.No.240 of 2017.

2 The petitioner preferred an application for anticipatory bail granted by the Sessions Court by order dated 21st September, 2017. FIR was registered on 5th June, 2017. While allowing the application for anticipatory bail, the Sessions Court imposed conditions that the petitioner shall not leave India

without prior permission of the Court. Petitioner was directed to hand over passport to the investigating officer, till further orders.

3 The petitioner preferred an application before the Sessions Court for relaxation of conditions and seeking permission to travel abroad i.e Kuwait. It was submitted that the mother of the petitioner who is about 62 years old is suffering from arthritis and could not walk. Brother of the petitioner is handicap and his sister is married. It was submitted that the petitioner be permitted to travel to Kuwait. The said application was rejected on 17th April, 2018, on the ground that the details of the period for which the petitioner needs to travel to Kuwait is not mentioned and the itinerary giving the specific date is not stated by the petitioner. It was also stated that after filing of the charge - sheet, the presence of the accused will be necessary for prosecution of the matter.

4 Learned counsel for the petitioner submitted that although FIR was registered on 5th June, 2017, charge - sheet has not been filed by the police. He submitted that his mother is suffering from arthritis. He pointed out the medical documents in that regard. It is submitted that the petitioner wants to visit

Kuwait for a period of two months and would return back to India and, thereafter.

6 Learned APP, on instructions, submits that the charge - sheet has not been filed. The presence of the petitioner is required at the time of filing charge - sheet. Petitioner is also required to attend the proceedings after filing of the charge - sheet.

7 It is noted that the FIR was registered on 5th June, 2017, and, since then the investigation is going on. Petitioner was granted anticipatory bail. The application preferred before the trial Court was rejected on the ground that the sufficient details were not furnished in respect of itinerary, and the period of visit. Petitioner has now stated that he would visit Kuwait for a period of two months. It is also submitted that in the event the charge - sheet is filed within a period of one week, he would remain present before the Court at the time of filing of charge-sheet. Learned APP, on instructions from the Investigating Officer, who is present in Court, submitted that the charge-sheet would be filed on 30th July, 2018 at 11:00 a.m. before the learned Metropolitan Magistrate 9th Court, Bandra, Mumbai.

8 Taking into consideration the aforesaid circumstances, petitioner can be permitted to travel abroad i.e. Kuwait for a period of two months.

9 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Application is allowed;
- (ii) Petitioner is permitted to travel to Kuwait for a period of two months from 15th August, 2018 to 15th October, 2018;
- (iii) The investigating officer would file charge - sheet on 30th July, 2018 at 11:00 a.m. before the concerned Court;
- (iv) Petitioner is directed to remain present before the trial Court on 30th July, 2018 at 11:00 a.m.
- (v) Petitioner shall furnish all details to the investigating officer about the place of his visit and contact number before his travel;

- (vi) Passport lying with the police in connection with the aforesaid case be handed over to the petitioner immediately and after his return to India he shall handover the Passport again to the police;
- (vii) Criminal Writ Petition stands disposed of.

(PRAKASH D. NAIK, J.)