

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.314 OF 2018

Nitin Padmakar Sontakke

Applicant

versus

The State of Maharashtra

Respondent

Mr.Kapil P. Dave for applicant.

Mr.H.S.Venegaonkar, for CBI

Mr.A.R.patil, Addl.P.P. for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14th August 2018

PC :

1. The applicant is seeking permission to travel abroad for a period of four days. The application preferred by the applicant before the Sessions Court stands rejected on 4th May 2018. The applicant is facing prosecution vide CBI Special Case No.68 of 2015. The proceedings are initiated u/ss.120-B and 420 of IPC read with Section Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act. The applicant vide application below Exhibit-80 sought permission to travel abroad. The said application was rejected on the ground that the discharge application preferred by the applicant is pending before the Special Court and he is not proceeding with the said application. In spite of directions to proceed with the matter, the application is not being argued by the applicant. It is further observed that the applicant is not co-operating in completing the hearing in discharge application and, therefore, the Special Court is of the view that the applicant has no right to travel abroad unless his argument is complete.

2. Learned counsel for applicant submitted that the discharge application preferred by the applicant vide Exhibit-167 is pending before the Special Court. He drew my attention to roznama dated 19th March 2018 and submitted that the prosecution had not filed reply to the said application for discharge. It is submitted that the matter has now been posted for further hearing on 27th August 2018. It is further submitted that on an earlier occasion, the applicant preferred an application before the Special Court, which was allowed by order dated 12th April 2018 by permitting the applicant to travel abroad on depositing Rs.5,00,000/- in addition to earlier security. It is submitted that the applicant is required to travel to Jakarta, Indonesia for four days for business purposes. He placed on record the letter dated 25th July 2018 forwarded to him by one of the investor. It is also pointed out that the Special Court at Pune has also permitted him to travel abroad in another case pending against him. It is submitted that the advocate representing the applicant would proceed with the application for discharge as and when it is ripe for hearing.

3. Mr.Venegaonkar, learned counsel for respondent-CBI opposed the grant of relief. It is submitted that the applicant has not co-operated in proceeding with the application for discharge, as observed by the Special Court in the impugned order. He submitted the written objection on behalf of CBI to the application preferred by the applicant. The written objections tendered by Mr.Venegaonkar are taken on record. It is submitted that the applicant has not furnished details about his visit and the purpose for which he intends to travel. It is submitted that the prosecution has indeed filed reply to

the application for discharge subsequently on 12th April 2018. He prayed that application be rejected.

4. On perusal of documents it can be seen that the applicant was permitted to travel abroad vide order dated 27th January 2018 by Special Court for CBI on furnishing security in the sum of Rs.5,00,000/-. The impugned order indicates that the applicant is not proceeding with the application for discharge which is pending in the Special Court. Learned counsel for applicant has submitted that as and when application for discharge is taken up for hearing by Court, his advocate will proceed with the arguments. Next date before the Trial Court is on 27th August 2018. It is also noted that the applicant is required to travel abroad at Jakarta, Indonesia for four days for business purposes. He was also permitted to travel abroad earlier also. The Special Court, at Pune had also permitted the applicant to travel abroad.

5. Considering the above facts there is no impediment in allowing this application. Hence, I pass following order :

ORDER

(i) The applicant herein is permitted to travel abroad at Jakarta, Indonesia for four days from the date of travel. The applicant shall deposit Rs.5,00,000/- in addition to earlier security before the Special Court before he travels abroad;

(ii) The applicant shall furnish the details of the places where he proposes to visit, his contact numbers and itinerary about his travel to the investigating officer;

(iii) As the CBI has filed the reply to the discharge application, the Special Court may hear the same on 27th August 2018 or thereafter as per convenience of Court and pass appropriate orders in accordance with law. The applicant shall not seek adjournment on any count;

(iv) Criminal Application No.314 of 2018 stands disposed off.

(PRAKASH D. NAIK, J.)

MST