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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 388 OF 2018**

Mahendra Manilal Shah

....Applicant

Vs.

The State of Maharashtra

....Respondent

Mr. Sadashiv G. Deshmukh a/w Ms. Priya Patil I/b Mr. Sanket
Deshpande Advocate for the applicant

Mrs. G. P. Mulekar APP for the State.

Mr. P. R. Kamath, Sr. Intelligence Officer, DGCEI

CORAM : PRAKASH D. NAIK, J.**DATED : 21st DECEMBER, 2018****P.C.**

This is an application for relaxation of condition imposed while granting bail to the applicant. Applicant is prosecuted for offence under section 12 of the Central Excise Act. By order dated 31/05/2013 applicant was granted bail and as a condition of bail, applicant was directed not to leave Mumbai without permission of the Court and surrender his passport. In pursuant to that order,

passport was surrendered to the Department. In pursuant to the aforesaid order, applicant had approached the Court on several occasions seeking relaxation of condition and permission to go abroad. On six occasions, applicant was allowed to go abroad. Orders permitting the applicant to go abroad are annexed to this application.

2 Applicant preferred an application before the Trial Court for relaxation of the aforesaid condition and also prayed for return of passport. It is submitted that whenever applicant is required to travel abroad, he has to prefer an application for return of passport. Since 2013, applicant has abided by the condition imposed by the Trial Court while granting bail. He was permitted to travel abroad to various countries and he has complied the conditions imposed by the Court while granting him permission to travel abroad and return to India.

3 Respondents have filed reply to this application. In the said reply, it is stated that penalty has been confirmed and personal penalty is imposed on applicant and appeal is pending before

CESTAT, Ahmedabad. It is also stated that the department has no objection to permit applicant to travel abroad. Mr. P. R. Kamath, Senior Intelligence Officer of DGCEI is present in the Court. He submitted that investigation is completed and the Department has no objection for returning the passport to the applicant. It is further submitted that the applicant should give his itinerary as and when he travels abroad to the concerned officer of the Department.

4 The learned counsel for the applicant submitted that the applicant is a resident of Mumbai. It is noted that applicant was permitted to travel abroad on several occasions and he has complied with the directions. In the circumstances, there is no impediment in granting relief as prayed in this application.

ORDER

- (I) Criminal Application no. 388 of 2018 is allowed.
- (II) The condition imposed vide order dated 31/03/2013 is relaxed and the respondent-Department is directed to hand over the

passport to the applicant.

(III) The condition of not to leave Mumbai is stands relaxed.

(IV) As and when applicant intends to travel abroad, applicant shall provide the itinerary to the concerned officer of the Department.

5 Application stands disposed of.

[PRAKASH D. NAIK, J.]