IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.579 OF 2018
WITH
CRIMINAL APPLICATION NO.1330 OF 2018

Balvinder Singh Sarjeet Singh .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Vikram Choudhary, Senior Advocate a/w. Dr.Sujay Kantawala I/b. Mr.Prashant Mishra & Ms.Aishwarya Kantawala, Advocate for the Applicant.

Mr.Arfan Sait, APP for the Respondent – State.

Mr.Pradip D. Gharat, EOW, Spl. P.P.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 30, 2018.

P.C. :

Applicant is seeking permission to travel abroad. Applicant has prayed for modification of condition no.8 imposed vide order dated 4th June, 2018, passed by the Additional Sessions Judge at Bombay.

2 Applicant was granted bail vide order dated 4th June, 2018. While granting bail, the learned Sessions Judge, has imposed condition that the applicant shall not leave India without the permission of the designated Court. Applicant thereafter

preferred an application before the said Court seeking relaxation of the said condition, on the ground that the applicant is required to travel to Singapore. The said application was rejected vide order dated 12th October, 2018.

3 Learned counsel for the applicant contended that the applicant is Singapore national. He was arrested oon 12th April, 2018, in the present case and after he was in custody for substantial time, the learned Sessions Judge was pleased to grant bail to the applicant. It is submitted that the applicant is in India from the date of arrest. His personal and professional life has been devastated on account of his arrest and incarceration in custody and he is subsequently inability to visit his home town for last more than six months. It is further submitted that his arrest and detention and restriction on travel abroad had also precipitated crises in his life as his wife has lost her job, son has virtually lost his admission in school. Father of the applicant is ailing. It is submitted that the applicant has made a declaration before the Consulate General of Singapore at Mumbai on 3rd October,2018. He had affirmed a solemn declaration by virtue of Oaths and Declarations Act (Cap 2111) of Singapore before the Consulate General of Singapore at Mumbai, wherein he has

affirmed that he will comply with any direction passed by the Hon'ble Court as well as by the Embassy of the Republic of Singapore. It is further stated that he assure and vouch that he will be present whenever the court orders him to do so. The said declaration was made before Mr.Nor Muhammad, Consular Officer, Mumbai and was sealed and stamped by the consulate General of the Republic of Singapore on 3rd October,2018. The said declaration is binding on the applicant under the Singapore Laws and is fully enforceable. The declaration made before the consulate General, Singapore under the prevalent law has binding force and the submission as well as acceptance thereof before the consulate General of a country, has always been accepted as an established practice by the Courts in India while allowing/permitting foreign nationals facing prosecution in India. It is submitted that the applicant cannot be deprived of right to visit his country. He was arrested and granted bail. He is a national of Singapore and he is the only son of his parents. He has no link or connection with the business relations of his mother. His father is aged about 68 years and he is suffering from various ailments including Coronary Artery Disease, left sided chest pain, hypertension, hyperlipidaemia etc., which have rendered him virtually incapacitated to undertake ordinary pursuits of life. His father has recentaly suffered chest pains and was accordingly admitted in the hospital at Singapore 6th September, 2018.and was discharged on the same day after undergoing ECG, provisional diagnosis of chest pain for investigation etc. It is further submitted that the applicant is required to be by the side of his father. Applicant's wife is a qualified Post Graduate and she is a renowned Software Engineer working for multinational company at Singapore. Her latest appointment was with United Overseas Bank through Optimum Solutions Pte. Ltd., as a Digital Bank Programme Lead. The son of the applicant was suffering from a grave speech disorder namely Autism Spectrum Disorder (ASD), ever since his birth. It is a serious neurological and developmental disorder that impairs the ability of a child to communicate and interact. The applicant's son has been under extensive therapies, tests and treatments, *inter-alia* with the best clinic in Singapore including Nutramed Clinic, Singapore. Applicant is also required to visit his native place to celebrate Diwali festival along with his family. It is submitted that the applicant had been travelling India since April 2018. He had been at Chennai Airport in pursuant to purported Look Out Circular. It is submitted that the charge – sheet is not yet filed against the applicant and one does not know as to when the trial would commence. Application preferred by the applicant has been rejected by the Sessions Court. Applicant has also filed a Miscellaneous Application filing additional documents in support of his application. It is stated that the applicant's father has recently suffered chest pains and was admitted in the hospital at Singapore on 6th September, 2018. It is submitted that he was again examined on 17th October, 2018. The Consulate General of of Republic of Singapore vide letter dated 19th October, 2018, confirmed that the applicant has apprised of them that he has been impleaded in C.R.No.60 of 2011, investigated by EOW, Mumbai, and filed a Solemn/Statutory declaration dated 3rd October, 2018, at the Consulate Office. Copy of the said letter dated 19th October, 2018, has been annexed to the Misc. Application. It is further contended that similar to the Solemn declaration made by the applicant on 3rd October, 2018, the applicant had shown another Solemn Declaration on 17th October, 2018, on Oaths and Declaration Act Singapore at Mumbai, wherein he has categorically affirmed that he is seeking permission from the Court to travel to his native place Singapore for a period of one month to take urgent care of his ailing father and to resolve urgently, matters pertaining to the career of his wife and the health of his son. It is also stated that if he is granted permission to travel to his native place at Singapore, he would comply with the directions of the Court, he would continue to assist with the investigation. It is also stated that the applicant be permitted to travel for a period of one month as soon as possible. It is also stated that he would appear as and when the Court directs, in the event, permission to travel abroad is granted to him. Copies of the said documents including his photocopy of passport has been annexed to application.

4 Learned counsel for the applicant placed reliance on the decision of the Supreme Court in the case of ***Miss Marie Andre Leclerc Vs. State (Delhi Administration)***[1], in which the learned counsel drew my attention to the observations of the said Court. The petitioner therein was allowed to go to Canada on the condition that she files an undertaking in the form of an affidavit to the court to return to India within stipulated time i.e. within one year from the date of departure from the country. He relied upon another decision of the Supreme Court in the case of ***Free Legal Aid Committee, Jamshedpur Vs. State of Bihar***[2]. It is pointed out that the Supreme Court in the said decision has observed that whenever an accused is released on bail, he need

1 Criminal Misc.No.2646 of 1983 dt.21.7.1983
2 (1992) 3 SCC 378

not appear before the Court until charge – sheet is filed and the process is issued by the Court. It is submitted that in the present case, the investigation is going on and charge – sheet is not yet filed against the applicant. He also placed reliance upon another decision of the Supreme Court in the case of ***Manoj Kumar Babulal Punamiya Vs. State of Jharkhand Tr. Dir. Of Enforcement***[3]. Learned counsel drew my attention to the observations of the Supreme Court in the said decision. The petitioner therein was facing trial under Money Laundering Act and the trial was in progress. The petitioner was suffering from serious ailments, and, he was required to undergo Stem Cell Therapy which was not available in the country. He was permitted to go to Singapore, where the Therapy is available. It was also observed that the petitioner therein shall be accompanied by Sub-Inspector of Police and two constables named by the respondent–agency. The petitioner was also directed to bear the travel expenses of the aforesaid officers to and fro Singapore. Learned counsel for the applicant submitted that even the applicant is willing to adhere to the conditions in the event the officers are directed to accompany him. It is submitted that the present application is for seeking relaxation of the condition. However,

3 CRLMP 5764 of 2014 in Spl Leave to Appeal (Cri)No.(s)4516 of 2012, dt. 01.09.2014

considering the submissions stated hereinabove, presently, the applicant be permitted to travel to Singapore for a period of about four weeks.

5 Learned APP vehemently opposed the relief sought in this application. It is submitted that the applicant is involved in serious offence. The crime involves the misappropriation of crores of rupees. Mother of the applicant is the main accused who is not traceable, and, has not cooperated with the investigation. It is further submitted that the applicant was also not available for investigation and the investigating machinery was required to issue Look Out Circular, and subsequently, he was apprehended at Chennai Airport. It is submitted that there is every likelihood that the applicant would abscond in the event he is given permission to travel abroad. It is further submitted that the applicant is involved in serious crime. The matter relates to the offences committed by the M/s.Speak Asia Online Pte. Ltd. and the other accused. The multiple companies have been formed by the accused and money is laundered from one account to another. The accused company have induced large number of gullible investors to invest money in the scheme and deceived them. The mother of applicant Harender Kaur is the CEO of the

accused company. Considering the amount of crores of rupees were transferred out of India. For laundering the siphoned funds, the accused prepared fabricated documents and misused the same in banks and the other government authorities like Service Tax, Income Tax etc. Learned counsel for the applicant, however, submitted that the submissions advanced by the learned counsel for the respondents are in relation to the other accused, and, there is no such evidence against the applicant. Learned counsel for the respondent submitted that there is no specific reasons for the applicant to travel abroad for a period of four weeks. The ailment of the father of the applicant is not so serious, which warrants the presence of the applicant. It is further submitted that there is embargo of any nature for whatsoever for travel wife of the applicant and his son. Investigation is in progress and hence the applicant may not be allowed to travel abroad. It is further submitted that the learned Sessions Judge has rejected the application by assigning cogent reasons. Applicant has not made out any ground to relax the conditions imposed by the trial Court.

6 Having heard both the sides. I have also gone through the documents. It is pertinent to note that the applicant was

arrested on 12th April, 2018. He was granted bail by the Sessions Court vide order dated 4th June, 2018. I have perused the order granting bail passed by the Sessions Court. It is observed by Sessions Court that the applicant had agreed to deposit Rs.10 crores unconditionally. To show his bonafide, he filed on record the account payee photocopy of D.D. dated 15th May, 2018 of Rs.10 crores, issued by OCBC Bank, Singapore Branch, in favour of Registrar, City Civil and Sessions Court. The Court has also observed that the mother of the applicant is the main accused in the offence and she is not traceable since beginning. Her bail application is rejected by the High Court. It is further observed that the only allegation against the applicant is that MMWG Pvt. Ltd. And La Marca Advisory Pvt. Ltd., in which he is one of the Director transferred Rs.10 crores to accused company Haren Ventures Pvt. Ltd., which belongs to his mother. Admittedly, neither MMWG Pvt.Ltd. and La Marca Advisory Pvt. Ltd., nor its any Directors are accused in the offence. Former Director, Dr.R.K. Anand provided all the documents regarding transactions between MMWG Pvt. Ltd. and Haren Ventures Pvt. Ltd. to the respondent. Co-accused Narayanan Rajgopalan during investigation admitted that he is the owner of La Marca Advisory Pvt. Ltd. It is further observed that the applicant was remanded to police custody from 12th April, 2018 to 23rd April, 2018 and since then he is in jail. Learned Judge while granting bail has also directed the Sessions Court to accept D.D. of Rs.10 crores dated 15th May, 2018 and encash the same and immediately handing over the amount of Rs.10 crores to the investigating officer. The investigating officcer was directed to deposit the said amount in the account of State Bank of India, Byculla Branch, Mumbai in the name of incharge Inspector of Police, EOW-11, Mumbai. Applicant was also directed to co-operate with the investigation and that he shall not tamper with the evidence. On the basis of the observations made in the aforesaid order, the applicant was granted bail by the Sessions Court. The investigation is still in progess and charge – sheet is not yet filed against the applicant. It is also pertinent to note that the applicant has filed two declarations before the Consulate General, as stated above. In the second declaration, he has stated that if he is permitted to travel abroad for a period of four weeks, he would comply whatever directions imposed by the Court while granting such permission. The learned counsel for applicant submits that he is willing to adhere condition imposed by this Court. He is also willing to abide by condition in the nature as reflected in decision of Apex Court in the case of ***Manoj Kumar Babulal Punamiya Vs.***

State of Jharkhand (Supra) by allowing any officer of respondent to accompany him to Singapore. It is submitted that from the date of arrest he is not been able to travel to Singapore. It is also pertinent to note that the applicant was arrested at Chennai Airport on the basis of Look Out Circular. It does appears that he travelled to India on the date of the arrest. Applicant was in custody and was granted bail subsequently. In the aforesaid circumstances, on stringent conditions, applicant can be permitted to travel to Singapore for a period of four weeks. Learned Spl. P.P. on instructions submitted that practically it would not be feasible to send any officer to Singapore with the applicant. However it is submitted that to secure presence of applicant, he may be directed to furnish Bank Security in the sum of Rs.8 crores. It is submitted that the said amount is reflected to have been credited into the account of the applicant. Learned counsel for the applicant, however, submitted that he has already deposited the amount of Rs.10 corres, he will not be in a position to furnish the security in the form of additional Bank Security of Rs.8 crores. He has also disputed the fact that the amount of Rs.8 crores connected with crime has been credited into the account of the applicant. Considering the fact fact that the applicant is permitted to travel abroad during the said period. Considering the aforesaid circumstances, it would be appropriate to direct the applicant to furnish Bank Secuirty in the sum of Rs.4 crores in addition to other conditions. This application is restricted to the aforesaid limited prayer and the applicant would be at liberty to prefer fresh application for permanent relaxation of the aforesaid condition.

7 Hence, I pass the following order:

:: <u>O R D E R</u> ::

(i) The condition imposed by the Sessions Court while granting bail vide order dated 4th June, 2018, viz. not to leave India without prior permission of the Court is relaxed for a period of four weeks from the date of applicant's travel. The applicant is permitted to travel to Singapore for a period of four weeks from the date of his travel. He shall return to India within four weeks;

(ii) The passport of the applicant be handed over to the applicant immediately;

(iii) The applicant shall file an undertaking before the Sessions Court that he would abide by the conditions stated in this order before he starts his journey to Singapore;

(iv) The applicant shall furnish Bank Security in the sum of Rs.4 crores. The same shall remain in force till the applicant returns to India;

(v) After applicant returns to India, the Passport be immediately returned to the Investigating Officer;

(vi) Applicant shall also report to Indian High Commission at Singapore, once in a week on Friday during his visit to Singapore;

(vii) Applicant shall furnish the details about his travel, place of his residence, his contact number, mobile number, E-Mail address etc., to the Investigating Officer, before he travels abroad;

(viii) Applicant shall not tamper the evidence during his stay at Singapore;

(xi) Criminal Application Nos.579 and 1330 of 2018, stand disposed of.

(**PRAKASH D. NAIK, J.)**