

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (APPW) No.161 of 2018 in
Criminal Writ Petition No.619 of 2018
(Varun s/o. Deepak Sadhwani .vs. Union of India and Ors.)

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr.Akshay Sudame, Advocate for the petitioner/applicant.
Mr.S.N.Bhattad, Advocate for respondent no.2.
Ms H.N.Jaipurkar, A.G.P. for respondent no.3.

CORAM : P. N. DESHMUKH &
M. G. GIRATKAR, JJ.

DATE : 23.7.2018.

Heard Mr.Akshay Sudame, learned Counsel for the petitioner/applicant, Mr.S.N.Bhattad, learned Counsel for respondent no.2 and Ms H.N.Jaipurkar, learned Assistant Government Pleader for respondent no.3.

By this application, prayer is for return of applicant's passport and for permission to travel abroad for joining his employment.

In addition to above, it is prayed that the conditions imposed upon the applicant by order dt.28.6.2018 to attend Office of respondent no.2 everyday at 11 a.m. and to assist the investigation be relaxed.

On the earlier date, on hearing both sides, above said condition is already relaxed with a direction to the applicant to attend the respondent no.2 as and when called.

As such, application is heard for release of

applicant's passport and permission to travel abroad.

Learned Counsel for the applicant submitted that, on 26.6.2018, by order of this Court, applicant is enlarged on bail and he has duly complied with the conditions imposed upon him for which admittedly there is no dispute on this aspect.

It is submitted that, while applicant was attending the Office of respondent no.2, his statement is recorded and thereafter, he was not interrogated on single occasion, which fact by itself demonstrates that applicant's presence is no more required for investigation.

It is the specific case of the applicant that he is working in Indonesia for the last 1½ years and visited India to meet his grandmother, who is unwell and for Ramzan festival on obtaining 20 days' leave from the employer. The applicant is stated to have reached India on 9.6.2018 and was apprehended on Chennai Airport and after being brought at Nagpur is arrested. Thereafter, he is released on bail as aforesaid.

Learned Counsel for the applicant thus submitted that since personal presence of applicant is no more required for the purpose of investigation, his passport be returned to him and he be granted permission to travel abroad by imposing suitable conditions as may deem fit and undertakes to make himself available as and when called by the Investigating agency.

Mr.S.N.Bhattad, learned Counsel for the respondent no.2 has opposed the application on the ground that the investigation is in progress and there is possibility of applicant's absconding if he is allowed to travel abroad.

From the affidavit-in-reply though it appears that investigation is in progress, the application is opposed on the ground that applicant was absconding for last ten months and look out notice was required to be issued against him. According to respondent no.2, since applicant has failed earlier to attend its Office in response to summons dt.10.6.2018 issued in the past, there is possibility of applicant's absconding and tampering with evidence so far as investigation, if any is carried out in Indonesia.

In view of submissions of respondent no.2 aforesaid and having considering the fact that applicant has duly attended the Investigating agency in compliance to the conditions imposed by this Court and has co-operated with the same, only apprehension of applicants not responding to the notice issued by respondent no.2 can be duly taken care of by imposing suitable conditions upon the applicant while allowing him to travel abroad, where undisputedly he is doing job. Even otherwise, there is no dispute of applicant having working as Sales Person in Marketing department of PT Lifeonic General Trading Company located in Indonesia, which fact is duly substantiated from the document on record.

In that view of the matter and since 20 days leave granted to applicant is admittedly expired and from communication received by him from the company, applicant is called upon to join his work immediately and on his failure to comply with the same, is informed of termination of his service, case of applicant as such certainly needs to be considered along with the case of

respondent no.2.

In the circumstances, we are inclined to allow the application, more particularly when other co-accused involved in a case registered vide File No.DRI/MZU/C/INT190/2017 also involving father of applicant, though are released on bail imposing conditions, no condition is imposed to the petitioners therein to deposit their passports. Hence, following order.

1. Respondent no.2 is directed to return back applicant his passport, on applicant's submitting undertaking before this Court of his remaining present before the Investigating agency in response to notice received by him.
2. Applicant shall provide his email ID for effecting service of notice on him calling upon him to appear before the trial Court at the time of filing of complaint.
3. In addition to applicant, undertaking by his father Deepak Sadhwani shall also be filed to keep applicant present in response to notice issued and received by him.
4. In the event applicant's presence is required for filing of complaint or investigation, respondent no.2 shall issue 72 hours clear notice to applicant to make himself available.
5. Respondent no.2 shall be at liberty to serve the

applicant on his email ID.

With above directions, application is disposed of as allowed.

Stand over to 30.7.2018.

JUDGE

JUDGE

**jaiswal*