

Vidya Amin.

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

CRIMINAL WRIT PETITION No. 3801 OF 2018

Kim Chang Ho	...	Petitioner
VS.		
Union of India & Ors.	...	Respondents

Mr. Krishna K. Holambe-Patil, Advocate for the petitioner.
Ms. Manisha Jagtap a/w. Anuradha A. Mane, Advocate for respondent Nos. 1 and 2.
Mr. A.R. Patil, APP for the respondent No. 3/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 23rd January, 2019.**

P.C. :

1. This Application is moved by the applicant/accused, who is Korean National, seeking permission to travel abroad for one month to meet his family members. The applicant/accused was arrested on 21st March, 2018 by the Air Intelligence Unit, Chhatrapati Shivaji International Airport, Andheri for the offences punishable under sections 135(1)(a), 135(1)(b) and 135(1)(i)(A) of Customs Act for smuggling of 15 kg. gold. The applicant was arrested along with two co-accused.

2. The learned counsel for the applicant/accused has submitted that co-accused Lee Chang Hwa and Yoon Yoosung were

permitted to travel abroad by the order passed by the learned Additional Chief Metropolitan Magistrate, 8th Court,, Esplanade, Mumbai dated 3rd October, 2018 and 24th December, 2018 respectively by accepting cash security. After the completion of the term, Lee Chang Hwa returned back to India. Yoo Yoosung is allowed to travel for three months, which is yet to over. The applicant/accused wants to travel to his homeland for a period of one month. The learned counsel submitted that the applicant undertakes that he will come back thereafter.

3. Considered the orders dated 3rd October, 2018 and 24th December, 2018 passed by the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai. The Application of the applicant/accused seeking permission to travel abroad was rejected in the month of May, 2018 and it appears that it was the first Application made out of these accused. The Criminal Revision Application No. 612 of 2018 filed by the applicant/accused was rejected by the order dated 18th July, 2018 passed by the learned Additional Sessions Judge, City Civil Court, Greater Bombay and that order is also under challenge.

4. Accused Lee Chang Hwa and Yoo Yoosung was allowed to travel abroad and the applicant/accused undertakes that he will return after one month if permission is given to him to travel to his homeland. In view of this, I pass the following order:

- (i) Application is allowed;
- (ii) The applicant/accused Kim Chang Ho is allowed to travel to Korea for one month from the date of departure from India;
- (iii) The applicant to furnish cash security of Rs.5,00,000/- before the Metropolitan Magistrate, Mumbai.
- (iv) The applicant is directed to give the details/schedule of his tour to Korea;
- (v) The applicant is directed to furnish detailed address and contact number at Korea before his travel to abroad;
- (vi) The applicant is directed to furnish two reference along with their consent to the Magistrate Court who can be contacted in his absence;
- (vii) The applicant shall give an undertaking that he shall not extend the period of stay at abroad;
- (viii) The applicant is directed to remain present before the Magistrate Court within 48 hours upon his returning from

Korea, failing which the amount of cash security Rs.5,00,000/- deposited in the court shall stand forfeited and amount be deposited to the State;

(ix) The passport of the applicant/accused be handed over to him, if seized;

(x) The applicant is directed to report to the Magistrate Court after his returning from abroad and redeposit the passport.

(MRIDULA BHATKAR, J.)