

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 5073 of 2019**

Nicky Lalchand Lalwani	Petitioner
versus	
Bureau of Immigration, Ministry of Home Affairs, Govt. Of India and ors.	Respondents

Mr. Raju M. Yamgar, advocate for the petitioner.
Mr. S. R. Shinde, APP for the State.

**CORAM : RANJIT MORE &
N. J. JAMADAR, JJ.**

DATE : 15th OCTOBER, 2019.

P. C. :

1. Heard Mr. Yamgar, learned counsel for the petitioner and Mr. Shinde, learned APP for respondent Nos.2 to 4. The presence of respondent Nos.1 and 5 is not necessary for the purpose of disposal of this petition.

2. The petition is filed for quashing and setting-aside the Look Out Notice issued by respondents against the petitioner. The petitioner has also sought direction to grant him permission to travel to China for business purpose and to attend Canton Fair 2019 for a period of 60 days from from 1st October, 2019 to 30th November, 2019.

3. The wife of petitioner by name Ankita Niky Lalwani has lodged an FIR No.I-126 of 2019 on 3rd May, 2019 with Kasarwadavali Police Station against the petitioner and his mother for the offences punishable under Sections 498A and 34 of the Indian Penal Code, 1860 (for short “the IPC”). Subsequent to the registration of the said FIR, a request was made by the Police Sub-Inspector, Kasarwadavali Police Station to the Deputy Commissioner of Police, Zone 5. Wagale Estate, Thane, vide letter dated 18th June, 2019, for taking appropriate steps for issuance of Look Out Notice against the petitioner and, in pursuance of the said letter, a Look Out Notice was issued against the petitioner by respondent No.1. The petitioner, while coming to India from China was arrested. The petitioner, thereafter, preferred an application for bail and learned JMFC, 2nd Court at Thane, released the petitioner on bail on execution of P.R. and S.B. of Rs.15,000/-. By this order, the petitioner was directed to attend the police station as and when directed by the I.O. for the purpose of investigation till the filing of charge-sheet. The petitioner is now required to travel to China for business purpose for a period of 60 days and, therefore, he made an application before learned JMFC in the said CR, a copy of which, is annexed at Exhibit-Q, page 119. Learned magistrate disposed of this application by passing speaking order dated 24th September, 2019. The operative part of the said order reads as follows:

- (i) Application is partly allowed.

- (ii) I.O. is hereby directed to return the passport of the applicant/accused bearing No.Z2261057 to the accused on following conditions:
- a) The applicants/accused shall not leave India without prior permission of this Court.
 - b) The applicant/accused shall remain present before this court as and when directed for the same.
 - c) The applicant/accused shall also remain present before the concern I.O. for the purpose of investigation as and when directed by the I.O. till the filing of the charge-sheet.
 - d) They shall submit their original passport before this Court as and when directed for the same.

The reading of the above order makes it clear that the I.O. was directed to return the passport of the petitioner on certain conditions, however, the petitioner is not permitted to go abroad.

4. Mr. Shinde, learned APP, placed on record a communication dated 22nd August, 2019 addressed by Dy.Commissioner of Police, Zone -5, Wagale Estate, Thane City to the Deputy Director, Bureau of Immigration (BOI), East Block – VIII, Sector – 1, R. K. Puram, New Delhi. By this communication, it was informed to the said Deputy Director that petitioner has been arrested and as such there is no need to keep the LOC open. Accordingly, a request was made that the LOC No.2019418781 opened against the petitioner may kindly be disposed from the system.

5. In the light of the above facts, Mr. Shinde, learned APP, makes a statement that LOC against the petitioner is no more in force. The prayers (a) and (b) sought by the petitioner, therefore, have rendered infructuous. So far as relief sought in prayer clause (c) regarding permission to travel abroad is concerned, we find no reason why the permission should not be granted to the petitioner, in a case, where he has already been arrested and released on bail.

6. We, accordingly, dispose of the petition by passing the following order :

(1) The petitioner is permitted to travel to China for business purpose and to attend the Canton Fair from 17th October, 2019 to 30th November, 2019, on following conditions:

(i) The petitioner shall provide his itinerary, mobile number and address where he would be staying at China to the Investigating Officer, before leaving India.

(ii) The petitioner, after the return from China, within a period of one week, shall attend the office of Investigating Officer for interrogation, if necessary.

7. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]