

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

LD-VC-BA NO. 103 OF 2020

Batyrov Shukhratbek and others

vs.

The State of Maharashtra through PS Gadchiroli

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. Mirza alongwith Shri. M.N.Ali counsel for applicants.
Shri. A. A. Madiwale, APP for non-applicant State.

CORAM : MANISH PITALE J.

DATED : 12/06/2020

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard Mr. Mirza alongwith Mr. Ali, Advocates for the applicants.

3. The applicants herein are citizens of the Kyrgyzstan and Kazakhstan, who have been arrayed as accused in F.I.R. No.0120 dated 05/04/2020 registered against them at the Police Station Gadchiroli for the alleged offences under Section 14(b) of the Foreigners Act, 1946, as also Sections 3 and 4 of the Epidemic Diseases Act, 1897 and Sections 188, 269 and 270 of the Indian Penal Code.

4. The allegation against the applicants appears to be that they had violated conditions of grant of Visa to them by arriving in Gadchiroli and indulging in “Tabligh activities”. It is alleged by the prosecution that they had also violated conditions of the lock-down, resulting in registration of F.I.R. The applicants were arrested on 29/04/2020 and since then they have remained behind bar.

5. The applicants had filed an application for grant of bail before the Sessions Court which stood dismissed on 11/05/2020. The Sessions Court refused to grant bail to the applicants primarily for the reason that they had allegedly attended a religious program at a Masjid at Delhi and they had violated conditions of their Visa as also lock-down conditions imposed due to the COVID-19 crisis.

6. Upon notice being issued in the present application, the non-applicant filed its reply and emphasized upon the material on record allegedly demonstrating clear violation of conditions of grant of Visa to the applicants, as also violation of lock-down conditions. It was emphasized that if the applicants were released on bail there was every possibility that they would flee the country illegally.

7. The learned counsel appearing for the applicants submitted that even according to non-applicant State, the applicants had arrived in Gadchiroli

on or about 11th March 2020. It was submitted that they had immediately intimated the authorities regarding their arrival. It was further submitted that lock-down due to COVID-19 crisis was imposed during their stay at Gadchiroli and there was nothing to show that either they had attended the religious congregation at a Masjid in Delhi or anything to show that they had indulged in so called “Tabligh activities” at Gadchiroli. According to the learned counsel for the applicants, the applicants were peacefully residing at Gadchiroli and that they have not violated any Visa conditions. It was further submitted that the passports of the applicants were also already with the investigating authorities and that the applicants were ready to co-operate with the investigation. It was submitted that appropriate conditions could be imposed for releasing applicants on bail.

8. The learned APP vehemently opposed the present application, contending that charge-sheet was likely to be filed in the near future and that the investigation was yet to be completed. It was further submitted that communications had been addressed to the embassies of Kyrgyzstan and Kazakhstan asking for back-ground of the applicants and that since the information was awaited and the investigation was yet to be concluded, including details of the CDR and SDR reports of certain mobile phones used by the applicants, the present application deserved to be dismissed.

9. Having heard the learned counsel for the rival parties and upon perusal of the material on record, it is evident that the applicants have been behind bars since 29/04/2020. The applicants are citizens of Kyrgyzstan and Kazakhstan who have arrived in this country on the basis of valid Visas issued to them. Although there is an allegation that the applicants had violated the conditions on which the Visa was issued to them, primarily by engaging in “Tabligh activities”, whether such conditions were violated or not would be a matter for trial. At present, it appears that the applicants were picked-up from Gadchiroli on the aforesaid allegations and thereafter they were kept in quarantine and presently they are continuing in custody. The overwhelming reason why the non-applicant State vehemently opposed the present bail application is the apprehension that the applicants would flee the country upon being released on bail.

10. But it is admitted position that the passports of the applicants are in custody of the investigating authority. Appropriate conditions can certainly be imposed upon the applicants while releasing them on bail so as to ensure their presence during the pendency of the trial. In fact, in the application itself, it has been stated on behalf of the applicants that they would undertake to stay at the premises of the Darool Uloom Shahi Urdu Arabic School, Kosara, Padoli, Chandrapur, and that they would report to the police station regularly.

11. In this backdrop this Court is of the opinion that the present application can be allowed by imposing appropriate conditions.

12. In view of the above, the application is allowed in following terms :-

(i) The applicants shall be released on bail in connection with F.I.R. No.0120, dated 05/04/2020, registered at Police Station Gadchiroli on furnishing PR bond of Rs.20000/- (Rupees Twenty Thousand only) each and a surety in the like amount.

(ii) It would be appropriate that the office bearers of the Darool Uloom Shahi, Chandrapur provide surety on behalf of the applicants. The passports of the applicants already seized by the investigating authorities shall remain in the custody of the investigating authority.

(iii) The applicants shall stay at the premises of the Darool Uloom Shahi, Chandrapur, City Police Station, during the pendency of the trial.

(iv) The applicants shall report to the City Police Station, Chandrapur on every Monday between 10.00 a.m. and 5.00 p.m. during the pendency of the trial.

(v) The applicants shall co-operate with the investigation and make themselves available before the Investigating Officer at Gadchiroli as and when required.

(vi) The applicants shall not indulge in any activity that would amount to violation of Visa conditions.

(vii) The applicants shall neither tamper with the evidence nor influence the witnesses.

13. Needless to say in case the applicants violate any of the above mentioned conditions, the bail granted to them will be liable to be cancelled.

14. The application is allowed in above terms.

15. The order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE