

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

**Criminal Revision Application (REVN) No. 109 of 2020**

**Umakant s/o Shampal Agnihotri Vs. State of Maharashtra through**  
**Commissioner of Police and Another**

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

Court's or Judge's orders

Mr. Shyam Dewani, Advocate for the applicant  
Ms. T.H. Khan, APP for the respondent No.1.

**CORAM : MANISH PITALE, J.**

**DATED : NOVEMBER 24, 2020**

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. By this Revision Application, the applicant has challenged order dated 03/09/2020, passed by the Court of District Judge-7, Nagpur in Sessions Trial No. 5/2019, whereby an application filed on behalf of the applicant seeking permission to travel abroad was rejected.

3. The learned counsel for the applicant points out that similar applications were made in 22 other cases pending against the applicant and that the Competent Courts had granted permissions in all the 22 cases subject to certain conditions. It was submitted that the aforesaid Court rejected the application in only this singular case by making the following observations :

“In this matter, already evidence of two witnesses has been recorded before lockdown but due to COVID-19 situation matter could not be completed. Now looking to the unlock situation, matter will be proceeded soon. The matter is old one and committed to the Sessions Court vide order dated 03-12-2018. Though the Ld. Counsel relied on Government Notification and citation but he has not filed its copies on record. Hence, considering the facts and circumstances of the case and the matter being part heard, the appearance of the accused is necessary for his identification. Hence, in my opinion, applicant/accused is not entitled for the relief, as prayed. Hence, the order.

### **ORDER**

The application (Exh.20) stands rejected.”

4. The learned counsel for the applicant submitted that the applicant had also filed Writ Petition No. 423 of 2020, before this Court for direction to the respondent No.2 to issue passport and necessary travel permission. The said Writ Petition was listed before the Division Bench of this Court, wherein the Division Bench noticed that by order dated 03/09/2020, the aforesaid Court had rejected permission to the applicant to travel abroad and that the said order constituted a separate cause of action for which a remedy was available. It was submitted that in view of the same, the present Revision Application has been filed challenging the aforesaid order dated 03/09/2020. It was submitted that in all the cases that had been registered against the applicant except the one in which the impugned order has been passed, permissions have been granted by the Competent Courts. It was further submitted that even in the present case offences have been registered against the applicant under Sections 353, 294 and 506 of the Indian Penal code. By inviting attention of this Court to the aforesaid provisions, the learned counsel for the applicant

submitted that since the applicant is a social worker engaged in voicing concerns of the public at large, number of cases have been registered against him. It was further submitted that the applicant had specifically stated before the Court below that he desired to travel abroad to assist his daughter, who has been admitted to a course of management in International Business in the University of Bristol in United Kingdom. It was further submitted that the applicant would abide by the conditions that may be imposed by this Court for grant of permission to travel abroad.

5. Upon notice being issued, the respondent No.1 has filed reply. It has been stated that since permission to travel abroad was sought for the period between 28/09/2020 to 31/10/2020, which period was already over, no relief could be granted to the applicant in the present case. Other than that it was submitted that two witnesses were already examined before the concerned Court and that presence of the applicant would be necessary for further proceedings before the said Court.

6. It is also pointed out by the learned counsel appearing for the applicant that in the meanwhile passport has been issued by respondent No.2 in favour of the applicant. None has appeared on behalf of the respondent No.2.

7. Having heard the learned counsel for the applicant and upon perusal of the Revision Application and the documents filed therewith, this Court is of the opinion that the present Revision Application can be allowed conditionally. It is an admitted position that in all the other 22 cases registered and pending against the applicant, permissions have been granted by the Competent Courts for travel abroad subject to imposition of

certain conditions. In the present case also, considering the statements made in the Revision Application and the reason put forth on behalf of the applicant, it appears that appropriate relief can be granted. The applicant cannot be denied relief merely because the period for which he sought permission to travel abroad is over during the pendency of the proceedings. It is candidly submitted on behalf of the applicant that due to pendency of the proceedings and absence of favourable order, the daughter of the applicant has indeed travelled abroad and sought admission in the aforesaid University, but, the applicant needs to travel abroad for settling his daughter and coming back to attend to the proceedings before the Courts.

8. In view of the above, the impugned order passed by the Court of District Judge-7, Nagpur is quashed and set aside and the application at Exh.20 filed on behalf of the applicant is allowed. The applicant is permitted to travel abroad for the period between 1<sup>st</sup> December 2020 to 15<sup>th</sup> January 2021. The applicant is directed to furnish a copy of the Visa before he leaves for abroad before the aforesaid Court. The counsel appearing for the applicant shall appear before the Court below on the dates on which the case is listed, during the period when the applicant will be abroad. The applicant is further directed to remain present before the aforesaid Court upon his arrival in India before expiry of the aforesaid period for which permission is granted.

9. Application is disposed of.

JUDGE