

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

INTERIM APPLICATION NO. 2229 OF 2021

IN

CRIMINAL WRIT PETITION NO. 265 OF 2021

Saket Kamleshkumar Agarwal
Adult, Indian Inhabitant,
Aged 56 years,
Residing at 7A,
Somerset Palace,
61D, Bhulabhai Desai Road,
Mumbai – 400 026.

.... Applicant/Petitioner

Versus

1. The Director,
Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
2nd Floor, Pt. Deendayal,
Antyodaya Bhavan,
CGO Complex, Lodhi Road,
New Delhi – 110003.

2. The Additional Director,
Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
2nd Floor, Pt. Deendayal,
Antyodaya Bhavan,
CGO Complex, Lodhi Road,
New Delhi – 110003.

3. Union of India,
Ministry of Corporate Affairs
“A” Wing, Sastri Bhawan,
Rajendra Prasad Road,
New Delhi – 110001.

4. Commissioner (Immigration)
East Block VIII, Level V,
Sector-1, R.K. Puram,
New Delhi – 110 066.

5. Bureau of Immigration,
Ministry of Home Affairs,
4th Floor "Videsh Bhavan",
Bandra Kurla Complex,
Plot No. C-45,
G Block, Bandra (East),
Mumbai – 400 051.

6. Union of India,
Ministry of Home Affairs,
(Foreigners Division),
Major Dhyan Chand,
National Stadium,
India Gate,
New Delhi – 110001.

....Respondents

Mr.Venkatesh Dhond, Senior Advocate a/w. Mr.Ranjit Shetty i/b
Argus Partners for applicant/petitioner.
Mr. H.S. Venegavkar for respondent Nos.1 and 2-SFIO.
Mrs. M.H. Mhatre, APP for State.

**CORAM : S. S. SHINDE &
N.J. JAMADAR, JJ.**

Reserved for Order on : 14th September 2021.

Order pronounced on : 17th September 2021.

ORDER :

1. The applicant-petitioner has preferred this application seeking permission to travel to France and United Kingdom from 19th September 2021 till 2nd October 2021.

2. The applicant-petitioner had preferred the writ petition seeking to quash and set aside the Look Out Circular/Notice issued by respondent Nos.1 and 2 imposing travel restrictions on the applicant-petitioner. The said Look Out Circular/Notice came

to be issued as investigation is underway in respect of ABG Shipyard Ltd., of which the petitioner was allegedly a Director.

3. The petitioner had sought permission to travel abroad from 1st April 2021 to 4th April 2021. By an order dated 18th February 2021, this Court had granted permission to the petitioner to travel abroad, subject to certain conditions.

4. By virtue of this application, the petitioner again seeks permission to travel to France and United Kingdom as the meetings are scheduled with his partner in a Joint Venture, M/s. Bollore SA. The meetings are to be held between 20th September 2021 and 21st September 2021. The applicant further avers that he proposes to combine the business commitments with a short family vacation in the United Kingdom from 22nd September 2021 to 2nd October 2021. The applicant undertakes to return to India on 2nd October 2021 and abide by the travel plans set out in the application and all the conditions which may be imposed by the Court.

5. The respondent Nos.1 and 2 have resisted the application. The substance of the resistance is that the investigation into the allegations of serious fraud in the affairs of ABG Shipyard Ltd. is underway. The applicant's role as one of the original promoter/Directors of the said company, which is a part of the

Agarwal family, is under the scanner. Initial investigation has revealed possible injury to public interest and also possible involvement of the applicant, who was the Director of the company, for a substantial period. Moreover, a major part of the period proposed to be spent abroad is for family vacation. Thus, there is no exigency to merit indulgence of this Court.

6. We have heard Mr.Dhond, the learned Senior Counsel for the applicant/petitioner and Mr. Venegavkar, the learned counsel for respondent Nos.1 and 2. We have also perused the material which is germane to the present application.

7. Mr. Dhond, the learned Senior Counsel for the applicant submitted that the applicant had extensively travelled abroad during the period 2016 to 2019 and has returned to India on all occasions. The apprehension of flight risk is wholly unsustainable. The applicant had abided by all terms and conditions subject to which permission was granted by this Court by order dated 18th February 2021. Moreover, the applicant was very well available in India for being proceeded against, if the authorities claim that the investigation has revealed allegedly incriminating role of the applicant.

8. Mr. Venegavkar, on the other hand, laid emphasis on the fact

that the investigation is still underway and, at this stage, the respondent Nos.1 and 2 cannot divulge the details so as to preserve the integrity of the investigation. Mr.Venegavkar submitted that the purpose for which the applicant intends to travel abroad cannot be said to be of pressing nature. Since, majority of the period is to be utilized for family vacation, the application does not deserve to be entertained, submitted Mr. Venegavkar.

9. Indisputably, the applicant was granted permission to travel abroad by order dated 18th February 2021. It is not the case that the applicant contravened any of the conditions, subject to which the said permission was granted. We find substance in the submission of Mr. Dhond that the applicant has extensively travelled in the years preceding the issue of Look Out Notice/Circular. The chart (Exh.'E') annexed to the petition reveals that the applicant had travelled abroad on as many as 32 occasions during January 2016 to December 2019. It seems that the applicant has roots in India to bind him down.

10. We also find substance in the submission of Mr.Dhond that considerable time has elapsed since the issue of Look Out Notice and the return of the applicant to India on 3rd April 2021, in accordance with the directions of this Court in the order dated 18th

February 2021. The Investigating Agency have had reasonable time to conduct investigation qua the applicant and initiate appropriate steps. In these circumstances, the applicant cannot be deprived of the right to travel abroad on the count that the investigation is underway. We are also not persuaded to take a very rigid and unfavourable view of the matter for a fair disclosure by the applicant that he proposes to combine the business commitments with family vacation.

11. For the foregoing reasons, we are inclined to allow the application, subject to same terms and conditions on which permission was granted by this Court by order dated 18th February 2021.

12. Hence, the following order :

O R D E R

The application stands allowed, subject to following conditions :

(a) The applicant shall inform respondent Nos.1 and 2 about his itinerary and also place a copy of the same before this Court.

(b) The applicant shall inform respondent Nos.1 and 2 about the place where he would be staying

during such business trip abroad. He shall also give telephone/mobile numbers on which he can be contacted by respondent Nos.1 and 2 during the aforesaid trip.

(c) The applicant shall submit a coloured photocopy of his passport on which he shall be travelling abroad, to respondent Nos.1 and 2, as also before this Court, within a period of three days.

(d) The applicant shall also submit copies of his tickets for the onward and return journeys, to respondent Nos.1 and 2 as well as before this Court, within a period of three days.

(e) The applicant shall submit an undertaking before this Court, within three days, that he shall abide by such travel plans and that he shall return to India as per such travel itinerary submitted before this Court.

The application stands disposed of.

[N.J. JAMADAR, J.]

[S.S. SHINDE, J.]