

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

CRIMINAL WRIT PETITION NO.777 OF 2021

Shri Vaibhav Suryakant Jaipuria,
Aged about 48 years,
Occ: Business, R/o 50,
Jaipuria House, Balraj Marg,
Dhantoli, Nagpur-440 012. **PETITIONER**

...V E R S U S...

1. The State of Maharashtra, through
Police Station Incharge, Rana Pratap Nagar,
Nagpur, Dist. Nagpur.
2. Economic Offences Wing,
Nagpur. **RESPONDENTS**

Mr. S. P. Bhandarkar, Advocate for Petitioner.
Mr. N. R. Rode, APP for Respondents/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **29th OCTOBER, 2021.**

ORAL JUDGMENT:

The petitioner is a businessman and a Director of
Universal Drinks Pvt. Ltd., Nagpur (Company).

2. The company constructed a multi-storied building
(Enrico Heights) at Plot 3, Survey 38/1 and 38/3, situated at
Mouza Somalwada, Wardha Road, Nagpur.

3. The complainant Mahendra Sirsat claims to have booked two apartments in the said building and to have paid part consideration of Rs. 20,00,000/- (Rupees Twenty Lakhs) to the company.

4. Evidently, certain disputes arose between the said complainant and the company. While one apartment was allotted to the complainant and the amount paid adjusted, the allotment of the second apartment was cancelled.

5. Mahendra Sirsat lodged report on the basis of which the Rana Pratap Nagar Police Station, Nagpur registered offence punishable under Sections 406 and 420 of the Indian Penal Code.

6. The learned Sessions Judge was pleased to grant pre-arrest protection *inter alia* observing that the dispute is essentially civil in nature and that the complainant is at liberty to ventilate his grievances by instituting civil proceedings.

7. However, the learned Sessions Judge imposed several conditions, one of which is that the petitioner shall not leave the jurisdiction of the Court without prior permission and that the

petitioner shall handover his passport to the Investigating Officer.

8. The petitioner preferred Criminal Writ Petition 334/2021 assailing the conditions imposed by the learned Sessions Judge.

9. Vide interim order dated 30.04.2021 this Court directed as follows:

12. As an interim arrangement, it is directed that instead of attending the concerned police station on the three days specified, the petitioners shall attend the concerned police station as and when directed by a written communication, with 48 Hours notice. The condition that the petitioners shall not leave the jurisdiction of the Court without prior permission is substituted by the condition that the petitioners shall not leave India without the prior permission of the Court.

10. Criminal Writ Petition 334/2021 came to be disposed of finally vide order dated 17.07.2021 and the interim arrangement made by this Court vide order dated 30.04.2021 was confirmed.

11. The petitioner then approached the learned trial Judge seeking modification of condition (v) seeking release of the

passport.

12. Vide order dated 05.10.2021 the learned trial Judge rejected the application on the premise that this Court had rejected the prayer of the petitioner for modification of condition (v) and therefore, the trial Judge is powerless to entertain the application.

13. The learned counsel for the petitioner Mr. S. P. Bhandarkar submits that the limited request of the petitioner is that the trial Judge should entertain his application for permission to go abroad and to that effect release of the passport on case to case basis since such a course is not ruled out by the orders rendered by the High Court. The submission is well founded.

14. The petition is partly allowed.

15. The order impugned is quashed to the extent the learned trial Judge has held that he is powerless to relax the condition in view of the orders rendered by the High Court.

16. Considering that the dispute is of civil nature, that the petitioner is a businessman who has deep roots in the society and

is not, even according to the prosecution, a flight risk, the learned trial Judge shall consider any application preferred for permission to leave the country, as expeditiously as possible, and in any event within ten days of such application being preferred. If the trial Judge is of the view that such permission can be granted, a direction to the Investigating Officer to release the passport for such period as the trial Judge may deem fit, shall be issued.

17. The petition is partly allowed in the aforestated terms.

JUDGE

NSN