

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.954 OF 2022
IN
CRIMINAL APPEAL NO.633 OF 2015

Chhaya Ashok Kumar Purwar Applicant
versus
The Superintendent of Police and another Respondents

WITH
INTERIM APPLICATION NO.956 OF 2022
IN
CRIMINAL APPEAL NO.634 OF 2015

Ashok Kumar Purwar Applicant
versus
The Superintendent of Police and another Respondents

Ms.Reshmarani Nathani with Ms.Priyanka Wagoskar i/by
Mr.PS.Hingorani, Advocate for applicant in IA No.954 of 2022.
Ms.Reshmarani Nathani with Ms.Priyanka Wagoskar i/by Mr.Ravi L.
Gurnani, Advocate for applicant in IA No.956/2022.
Mr.Saurabh Kshirsagar i/by Mr.H.S.Venegavkar, Special Public
Prosecutor for respondent no.1.
Ms.S.V.Sonawane, APP, for respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th April 2022

PC :

1. The applicants in both these applications are husband and wife. The applicant in Interim Application No.956 of 2022 (accused no.1) is convicted for the offence under Section 13(1)(e) r/w Section

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13(2) of Prevention of Corruption Act. The applicant in Interim Application No.954 of 2022 is convicted for the offence under Section 109 of Indian Penal Code r/w Section 13(1)(e) r/w Section 13(2) of Prevention of Corruption Act. The judgment and order dated 8th May 2015 passed by Special Judge in Special Case No.56 of 2005 has been challenged by both applicants by preferring separate appeals. Both the appeals are admitted by this Court and the sentence of imprisonment has been suspended.

2. The applicants are seeking permission to travel Australia during the period between 1st August 2022 and **31st January 2023**.

3. Learned advocate for applicants submit that the younger daughter of applicants Dr.Jahnvi Pflueger Nee Purwar is at present based in Perth, Australia and her residential address is 3A Aughton Street Bayswater Wa-6053 Perth Australia. She is residing with her husband. They have son aged two years and 5 months. The applicants daughter is expecting a second child on 27th June 2022. She is residing at Australia without any other family member. She has sought help of applicants post her delivery. Hence applicants are required to visit her.

4. It is submitted that during pendency of trial before Special Judge, the applicants had travelled abroad and on completion of visit they returned to India and attended Trial Court. Both the applicants had preferred applications before this Court for renewal of passports. They were permitted to renew passports which were with them vide order dated 11th January 2019. However, this Court imposed condition that the applicants shall not leave India without permission

of this Court. The applicants had preferred applications before this Court to travel Australia to meet their aforesaid daughter for post delivery assistance, which she had delivered the first child. By order dated 17th October 2019 the applicants were allowed to travel abroad for three months from 8th November 2019. The applicant in Interim Application No.954 of 2022 travelled to Australia and stayed with her daughter, son-in-law and grand child. The applicant in Interim Application No.956 of 2022 could not travel due to ill health. Both the applicants preferred application for renewal of passports which was allowed by this Court vide order dated 27th October 2021.

5. The respondent-CBI has filed affidavit-in-reply opposing the application. It is submitted by learned counsel for CBI that applicants are convicted and their appeals are pending. There is apprehension that applicants may not return to India. The husband of the daughter of applicants is settled in Australia and hence the aforesaid apprehension.

6. On perusal of the documents annexed to these applications it is apparent that similar prayer was granted by this Court vide order dated 17th October 2019 wherein applicants were allowed to travel abroad for three months. It is also pertinent to note that prior to grant of said permission the applicants had moved an application before this Court seeking permission to renew passports, which was granted vide order dated 11th January 2019. While allowing said application this Court had imposed condition that applicants shall not leave India without permission of this Court. In view of said conditions, the applicants were required to prefer applications seeking permission to travel abroad. The order dated 17th October

2019 makes reference to the fact that applicants were permitted to travel abroad pending appeals and that they have not jumped any of the conditions while granting bail to them. Vide order dated 27th October 2021 the subsequent application for renewal of passport was allowed by this Court. Although applicant in Interim Application No.956 of 2022 was permitted to travel abroad vide order dated 17th October 2019, he did not travel on account of ill health. The applicants are aged about 72 years and 76 years respectively. The earlier permission was not misused by them.

7. Learned counsel for applicants submit that only change is that address of the daughter of applicants is changed, which has been mentioned in the applications viz 3A AUGHTON STREET BAYSWATER WA-6053 PERTH AUSTRALIA. Considering the fact that in the past applicants have travelled abroad and applicants have not breached orders of this Court, these applications can be allowed.

ORDER

- (i) Interim Application Nos.954 of 2022 and 956 of 2022 are allowed;
- (ii) The applicants in both the applications are permitted to travel to Australia between the period 1st August 2022 and **31st January 2023**. During the said period the applicants shall stay at the house of their daughter Dr.Jahnvi Pflueger Nee Purwar at the address viz 3A AUGHTON STREET BAYSWATER WA-6053 PERTH AUSTRALIA;
- (iii) Before leaving India the applicants shall provide their itinerary and any other addresses where they are likely to visit while being in Australia, well in advance to the Superintendent of Police, CBI, ACB, Mumbai;

- (iv) On returning back to India, the applicants shall attend the office of Superintendent of Police, CBI, ACB, Mumbai forthwith and shall mark their attendance;
- (v) Both Interim Applications are disposed off.

(PRAKASH D. NAIK, J.)

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