

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO.1349 OF 2022
IN
CRIMINAL WRIT PETITION NO.265 OF 2021***

Saket Kamleshkumar Agarwal ...Applicant

In the matter between:

Saket Kamleshkumar Agarwal ...Petitioner

Versus

1. The Director,
Serious Fraud Investigation Office
2. The Additional Director,
Serious Fraud Investigation Office
3. Union of India
Ministry of Corporate Affairs
4. Commissioner (Immigration)
5. Bureau of Immigration
Ministry of Home Affairs
6. Union of India
Ministry of Home Affairs,
(Foreigners Division).

...Respondents

Mr. Venkatesh Dhond, Senior Counsel a/w Mr. Naushad Engineer, Mr. Ranjit Shetty, Mr. Yuvraj Choksy and Mr. Jonathan Jose i/b Argus Partners, for the Applicant.

Mr. Hiten S. Venegavkar, for the Respondent Nos.1 and 2.

Mr. S. S. Pednekar, A.P.P for the Respondent – State.

*CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.*

DATE : 4th JULY 2022

P.C. :

1. Heard learned Counsel for the parties.
2. By this interim application, the applicant seeks stay to the operation of the Lookout Circular (“LOC”), so as to enable the applicant to travel abroad for the period between 6th July, 2022 to 16th/17th July, 2022.
3. Mr. Dhond, learned Senior Counsel for the applicant submits that the applicant is required to regularly travel abroad for his business. He submits that even after the LOC was issued, the applicant travelled twice with the permission of this Court. Learned Senior Counsel relied on the orders dated 18th February 2021 and 17th September 2021, passed by this Court, which are at pages 22 and 77 of the application. He submits that the applicant is required to

travel to Paris, France to meet his JV partners, Bollore S A (“Bollore”) to discuss and device future business plans and strategic investments with Bollore. He further submits that the applicant will also be travelling to Rostock, Germany to meet with Liebherr-MCCtec Rostock GmbH (“Liebherr”) to visit their factory and discuss purchase of cranes for New Mangalore Port and Tuticorin Port projects. He further submits that post the said meetings the applicant would be staying in United Kingdom with his family, who will be joining the applicant for vacation.

4. Mr. Venegavkar, learned Counsel appearing for the respondent Nos. 1 and 2 opposed the application. He submits that the investigation is in progress.

5. Perused the papers. It is not in dispute that till date no complaint/FIR has been registered as against the applicant and that investigation of Serious Fraud Investigation Office (SFIO), is in progress. According to Mr. Venegavkar, learned Counsel appearing

for the respondent Nos. 1 and 2, the applicant is to attend the investigation on 26th July 2022.

6. It appears that the applicant is required to frequently travel abroad for his business purpose and has travelled on several occasions earlier. It also appears that pursuant to the investigation initiated by SFIO, the applicant has travelled on two occasions, pursuant to the orders passed by this Court dated 18th February 2021 and 17th September 2021 respectively. The applicant has returned back to India, pursuant to the said orders.

7. Learned Counsel for the applicant submits that the applicant is ready to file an affidavit-cum-undertaking before the Registrar (Judicial – I), Appellate Side of this Court, that he will return to India on 16th/17th July 2022, alongwith his itinerary giving details i.e. his contact details and addresses where he would be residing. It appears that the applicant has meetings scheduled in Paris, France as well as Rostock, Germany, and will be staying in

United Kingdom for some days. As of today, no complaint/FIR is registered, as against the applicant. Investigation of SFIO is in progress. The applicant has to attend the SFIO on 26th July 2022. The applicant would be returning prior thereto.

8. Considering that the applicant has travelled earlier pursuant to the orders passed by this Court and is ready to abide by the terms and conditions as may be imposed by this Court, the application is allowed on the following terms and conditions;

ORDER

(i) The applicant – Saket Kamleshkumar Agarwal is permitted to travel abroad during the period between 6th July, 2022 to 16th/17th July, 2022;

(ii) The applicant, before his departure, to file an affidavit-cum-undertaking with the Registrar (Judicial-I), Appellate Side of this Court, setting out the full itinerary of his overseas travel with all details, including the addresses where he would stay, telephone/mobile/ contact numbers, on which he can be contacted during the said period. A copy of the said affidavit-cum-undertaking shall also be furnished to the respondent Nos.1

and 2, before the applicant's departure;

(iii) The applicant shall undertake not to apply for renewal or extension of this order until he returns to this Country; and that he will return to India, on 16th/17th July, 2022;

(iv) The applicant before his departure shall also submit copies of his tickets for the onward and return journeys, to the respondent Nos. 1 and 2 as well as before the Registrar (Judicial-I), Appellate Side, of this Court;

(v) The Immigration Authorities on all points of departure, will permit the applicant to pass through immigration and to board his flight or flights, irrespective of whether the immigration system has been updated and whether the respondent Nos.1 and 2 has informed the Immigration Authorities or not;

(vi) In the meantime, the operation of the LOC issued against the applicant, is stayed during the said period i.e. between 6th July, 2022 to 16th/17th July, 2022;

(vii) The respondent Nos.1 and 2 to communicate this order to the immigration authorities at the earliest and in any event within 24 hours of this order being uploaded.

9. Interim Application is disposed of in the aforesaid terms.
10. All concerned to act on the authenticated copy of this order.

V. G. BISHT, J.

REVATI MOHITE DERE, J.