

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

***INTERIM APPLICATION NO.2583 OF 2022
IN
CRIMINAL WRIT PETITION NO.2679 OF 2022***

- | | | |
|----------------------|-------------------------------|----------------|
| 1) | Chintan Arvind Shah; and | |
| 2) | Vinit Arvind Shah | .. Applicants |
| <i>Versus</i> | | |
| 1) | The State of Maharashtra; and | |
| 2) | Hemant Sahebrao Salunkhe | .. Respondents |

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Mr.Satish Maneshinde i/b. Mr.Hemant Ingle, Advocate for the Applicants.

Mrs.M.M. Deshmukh, APP for the Respondent – State.

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***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATED : AUGUST 04, 2022.

P.C. :

At the outset, the learned counsel for the applicants seeks leave to amend. Leave granted. Amendment to be carried out forthwith.

2 By this application, the applicants i.e. applicant no.1 – Chintan Arvind Shah seeks permission to travel abroad during the period from 8th August, 2022 to 13th September, 2022, and, applicant no.2 – Vinit Arvind Shah seeks permission to travel abroad during the period from 30th August, 2022 to 16th September, 2022.

3 Learned counsel for the applicants submits that initially this Court had permitted the applicants to travel overseas from 25th July, 2022 to 17th September, 2022, on certain terms and conditions, as stipulated in the order dated 14th July, 2022, however, the applicants, at that time were not aware of another C.R. registered against them i.e. C.R.No.111 of 2019, registered with Kalyan Police Station (subsequently transferred to the EOW, Mumbai) alleging offences punishable under Sections 406 and 420 read with 34 of Indian Penal Code (“IPC’, for short); provisions of the Maharashtra Ownership of Flats (Regulation of the Promotion, Construction, Sale, Management and Transfer Act, 1963 (“MOFA Act”, for short); and, the provisions of the Maharashtra Protection of Interest of Depositors Act (“MPID Act”, for short). He submits that the nature of allegations in the said

C.R. i.e. C.R.No.111 of 2019 are similar / identical to that of C.R.No.220 of 2018, registered with Kalyan Police Station (subsequently transferred to EOW, Mumbai) for the same offences.

4 Learned counsel for the applicant relied on the order dated 1st February, 2017, passed by this Court in Arbitration Petition No.97 of 2017, filed by the applicants, whereby they were absolved of all past, present and future liabilities, as stated in the Deed of Confirmation which was executed on 13th September, 2014. The said order is on page no.154 of the petition. He further submits that, this Court, in a petition filed by the applicants seeking quashing of the proceedings in connection with C.R.No.220 of 2018, had directed the police not to file charge – sheet against the petitioner, without the leave of the Court. The said order is on page no.253 of the petition. He further submits that, again this Court *vide* order dated 13th June, 2022, had directed the investigating officer in C.R.No.220 of 2018, to return appellants Passport, impounded by the investigating officer. He submits that *vide* the said order, liberty was granted to apply for leave of this Court, as and when the applicants desired to travel. He submits

that the applicant no.1 – Chintan Arvind Shah intends to travel for business purpose for the period from 8th August, 2022 to 13th September, 2022 and, applicant no.2 – Vinit Arvind Shah intends to travel for the period from 30th August, 2022 to 16th September, 2022.

5 Learned APP opposes the application. She submits that the anticipatory bail application of the applicants is still pending.

6 Perused the papers. *Vide* order dated 14th July, 2022, this Court (Coram : Revati Mohite Dere and V.G. Bisht, JJ.), had permitted the applicants to travel overseas from 25th July, 2022 to 17th September, 2022, on certain terms and conditions, as stipulated in the said order. The said order is at page 257 of the petition. It appears that at that time the applicants were aware of only C.R.No.220 of 2018, registered with Kalyan Police Station, (subsequently transferred to the EOW, Mumbai) for the alleged offences punishable under Sections 406 and 420 read with 34 of IPC; Section 3 of MOFA Act and Sections 13(1) read with 3 of MPID Act. It appears that the applicants had filed a petition seeking quashing of the FIR i.e. C.R.No.220 of 2018, before

this Court and this Court vide order dated 22nd January, 2021, directed to police not to file charge – sheet, if not filed against the applicants, without seeking leave of the Court. Again *vide* order dated 13th June, 2022, this Court directed the investigating officer to return the applicants' Passport, which are impounded by them and liberty was granted to the applicants to apply for leave of this Court, as and when the applicants desired to travel. Accordingly, the applicants filed an application, as they were desirous of travelling overseas. This Court allowed the said application *vide* order dated 14th July, 2022.

7 It appears that when the applicants went to comply with the conditions imposed by this Court vide order dated 14th July, 2022, they were informed that there is another C.R. registered against them *vide* C.R.No.111 of 2019 registered with Kalyan Taluka Police Station (subsequently transferred to EOW, Mumbai). The offences alleged in the C.R. i.e C.R. No.111 of 2019, is similar to that of C.R.No.220 of 2018, in which this Court had directed the police not to file charge – sheet, without the leave of this Court.

8 It appears that this Court in an Arbitration Petition i.e. Arbitration Petition No.97 of 2017 preferred by the petitioners, *vide* order dated 1st February, 2017, had observed that the petitioners therein i.e. applicants herein, were relieved of all liability including of all third party rights for all development projects, as the petitioners had exited the development venture altogether, and were also absolved of all past, present and future liabilities, as set out in paragraph 10 of the Deed of Confirmation.

9 We had permitted the applicants to travel overseas in C.R. i.e. C.R.No.220 of 2019, in which lookout notice has been issued.

10 *Prima facie*, considering that the allegations are similar even in the present C.R. i.e. C.R.No.111 of 2019, as that of C.R.No.220 of 2018, we permit the applicants to travel overseas.

11 Accordingly, the application is allowed on the following terms and conditions:

:: ORDER ::

- (i) The applicant no.1 – Chintan Arvind Shah is permitted to travel overseas from 8th August, 2022 to 13th September, 2022, and, applicant no.2 – Vinit Arvind Shah is permitted to travel overseas from 30th August, 2022 to 16th September, 2022;
- (ii) The applicants, before their departure, to file an affidavit – cum – undertaking with the Registrar (Judicial – I), Appellate Side of this Court, giving full itinerary of their overseas travel with all details including the addresses where they would be staying, as well as their contact numbers on which they can be contacted, during the said period. A copy of the said affidavit – cum – undertaking shall also be furnished to the respondent No.1- EOW before the applicants' departure, by email/fax;

- (iii) The applicants shall in the affidavit – cum – undertaking undertake not to apply for extension of this order until they return to this Country; and that they will return to India, on or before their date of arrival in India;
- (iv) The Immigration Authorities on all points of departure, will permit the applicants to pass through immigration and to board their flight or flights, irrespective of whether the immigration system has been updated and whether the respondent No.1 has informed the Immigration Authorities or not;
- (v) The operation of the LOC issued against the applicants, in both the C.R's i.e. C.R. No.111 of 2019 and C.R.No.220 of 2018, registered initially with Kalyan Police Station and subsequently by EOW, Mumbai, is stayed during the said period i.e. between 8th August, 2022 to 16th September, 2022;

- (vi) The Respondent No.1 – EOW to forthwith communicate this order to the immigration authorities and in any event within 48 hours of this order being uploaded;
- (vii) The application is disposed of on the aforesaid terms;
- (viii) All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.