

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1428 OF 2022

Mehernosh Munchershaw Choksey .. Petitioner

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr.Vishal Jain for the Petitioner.

Mr.S.R.Agarkar, A.P.P. for the State/Respondent.

Mr.Khushnood Akhtar i/b Mr.Saeed Akhtar for the Respondent No.2.

PI Bhaskar Kadam, attached to Bangur Nagar Police Station, present.

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CORAM: BHARATI DANGRE, J.
DATED : 23rd OCTOBER, 2023

P.C:-

1. In terms of the order dated 12/09/2023, when the Petitioner was directed to remain present before the Investigating Officer, I have been informed by the learned A.P.P. Mr.Agarkar that the Petitioner has abided by the said direction and reported to the Investigating Officer on 30/09/2023 as well as on 04/10/2023, 05/10/2023 and 06/10/2023. Thereafter, with his permission, he has returned back to Dubai, his work place.

2. The present Petition is filed, challenging the order dated 16/02/2022 passed by the Additional Sessions Judge, Borivali

Division, Dindoshi, Mumbai, by which the protection from arrest conferred on the Petitioner came to be withdrawn on the ground that, there is a breach of condition.

The condition of which the breach was alleged, is his attendance in Bangur Nagar Police Station, on every Sunday from 10.00 a.m. to 01.00 p.m. till filing of charge-sheet.

3. While hearing the Petition on 12/09/2023, when the counsel for the Petitioner made a specific statement that the Petitioner had apprised the Court that he was serving in Dubai, I asked him to produce the copy of the bail application and I could notice that there was a specific statement that since 10/12/2020, he was residing at Dubai, UAE and continued to reside there.

With this specific statement, it is not understood as to how the Court could impose the condition that he shall report to the police station on every Sunday.

Considering that the Court ought to have taken into account this important circumstance and accordingly the condition of attendance of every week could not have been imposed, for the purposes of investigation, I deemed it appropriate to grant an opportunity to the Petitioner to report to the Investigating Officer for completing the investigation, on the dates mentioned in the order dated 12/09/2023.

4. Today, the learned A.P.P. Mr. Agarkar, on instructions of the Investigating Officer, PI Bhaskar Kadam, makes a categorical statement that the Petitioner has reported to him

and there is no requirement of his custodial interrogation. It is also further informed that the details of his employment, including the regular address of his employer, contact number as well as residential address are also furnished to the Investigating Officer. The Investigating Officer is satisfied with the compliance and has no apprehension in his mind that the Petitioner will not present himself for trial.

5. The learned counsel for Respondent No.2 would vehemently submit that there are DV proceedings filed by the wife and in these proceedings, the Petitioner/husband is required to mark his presence. He would also submit that Look Out Notice is issued against him. It is his specific contention that it is impossible to contact the Petitioner, once he start residing in Dubai, but I do not find substance in this contention, as the Investigating Officer has taken necessary steps, by verifying his address, name of his employer with whom he is working in Dubai and, since, I deem it appropriate to impose further condition upon the Petitioner that he shall mark his attendance with the Investigating Officer, once in four months and if there is failure to do so, the Investigating Officer is at liberty to take necessary steps and apprise his employer, about the said default.

6. At this stage, Mr.Agarkar, on instructions of the Investigating Officer, also states that since the Petitioner has complied the condition of reporting to the Investigating Officer for the purposes of investigating the subject C.R. filed by Respondent No.2, he shall take necessary steps for withdrawal

of Look Out Notice issued against the Petitioner, by entering correspondence with the concerned Ministry.

7. In view of the above, while allowing the Petition, by setting aside the order dated 16/02/2022, passed by the Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai, I direct the Petitioner to report to the Investigating Officer in the first week of four months, which shall ensure his whereabouts.

The writ Petition stands disposed off.

(SMT. BHARATI DANGRE, J.)