

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1319 OF 2023
IN
CRIMINAL WRIT PETITION NO. 3802 OF 2022

Anilkumar Mahendrapratap Singh ...Applicant

SNEHA
NITIN
CHAVAN

In the matter between:

Mahendrapratap Singh and Anr. ...Petitioners

Versus

The State of Maharashtra and Ors ...Respondent

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by SNEHA NITIN
CHAVAN
Date: 2023.04.13
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Mr. Aabad Ponda, Senior Advocate a/w Nilesh Pandey for the
Applicant in IA/1319/2023 and for Petitioner.

Mr. R.B. Mokashi for the Applicant in IA/3964/2022.

Mr. Rahul Karnik for Respondent No.2.

Mr. J.P. Yagnik, APP for the Respondent/State.

PI Mahendra Savardekar attached to EOW, Unit-8, Mumbai.

CORAM : SUNIL B. SHUKRE, AND
M.M.SATHAYE, JJ.

DATE : 13th APRIL 2023

P.C.

1. Heard.

2. Reply of Respondent No.2 is taken on record. It is marked
“A” for identification.

3. This application is opposed by learned Counsel for the
Respondent No.2 contending that email dated 03.08.2022
indicates that Applicant is having intention to relocate to

Switzerland and Applicant would not return to India once he gets the permission to go to Switzerland.

4. Learned APP submits that if any permission to go to Switzerland is granted to the Applicant, it may cause prejudice to the pending anticipatory bail proceedings before the concerned Court and it would become difficult for the police to place the Applicant under arrest if his anticipatory bail application is rejected.

5. Learned Senior Counsel for the Applicant submits that in the past the Applicant was granted leave to go to Switzerland upon certain conditions and the Applicant returned to India by following all those conditions and therefore, there is no reason for anybody to not trust the Applicant for the promise made by him to return to India and as and when directed by this Court and apart from that the Applicant has also tendered affidavit-cum-undertaking giving such a promise. The affidavit-cum-undertaking is taken on record and marked as "B" for identification.

6. On going through the previous order dated 23.12.2022 and considering the conduct of the Applicant till date, we are satisfied that Applicant does not appear to be a person who would evade his arrest or process of law. If it is not so, the Applicant would not have returned to India after having been granted permission by this Court to go to Switzerland earlier. There is no complaint of anybody that the Applicant misused the permission granted to

him earlier or committed breach of any of the conditions imposed upon him earlier.

7. Thus, there is no reason for us to not to believe in the assurance given by the Applicant.

8. Once we find that the conduct of the Applicant entitles him to get the permission as prayed for, we are of the view that the permission has to be given by this Court as after all, it is a question of protection of employment of the Applicant. Of course, suitable conditions would have to be imposed which we would do while passing the final order.

9. In the result, following order is passed:

ORDER

(i) Applicant Mr. Anilkumar Mahendrapratap Singh is permitted to travel to Switzerland from 16.04.2023 till 05.06.2023 in order to preserve his present employment. The LOC issued against him is stayed during the period from 16.04.2023 till 05.06.2023.

(ii) The Sale Deed already deposited by the Applicant with the Investigating Officer shall continue to be in custody of the Investigating Officer.

(iii) The Applicant shall, before his departure, file an affidavit-cum-undertaking setting out the full itinerary of travel to Switzerland giving all the details i.e. office address, residential address, landline number, mobile number, email address etc.

(iv) The Applicant shall also give undertaking-cum-affidavit stating that he shall not apply for renewal or extension of this order while abroad and shall without seeking any such renewal or extension return to India on or before 05.06.2023, that the Applicant shall, even before 05.06.2023 return to India and remain present before the Investigating Officer if required to so by him and that the Applicant shall not create any third party interest in the property in question until further orders.

(v) The Immigration Authorities are directed to permit the Applicant to pass through immigration so as to enable him to board the flight to Switzerland and return from Switzerland to India.

(vi) The Investigating Officer shall communicate this order to the Immigration Authorities at the earliest.

(vii) The application is disposed of in the above terms.

(viii) All the concerned to act upon an authenticated copy of this order.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)