

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

CRIMINAL APPLICATION NO. 107 OF 2023

Chetan Dinkarra Desai

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Aarif Ali for the Applicant.

Mr. S.H.Yadav, APP for the State.

P.I. Shewale, from Sion Police Station.

CORAM : ANUJA PRABHUDESSAI ,J.

DATED : 10th JULY, 2023.

P.C.

1. The Applicant seeks relaxation/modification of the condition nos. 6 and 8 in order dated 8.5.2023 passed by the learned Sessions Judge in Anticipatory Bail Application No. 972 of 2023.

2. Heard learned Counsel for the Applicant, and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The records reveal that pursuant to the order dated 2.12.2021, passed by the learned Magistrate under Section 156(3) of Cr.P.C., on an application filed by one Harshad Chotubhai Desai, MECR No. 1/2022 (FIR No.12 of 2022) has been registered against the Applicant and the

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co-accused for offences under Section 409, 418, 467, 468, 471 and 120-B of the Indian Penal Code.

4. By order dated 8th May, 2023, while granting pre-arrest bail to the Applicant and the co-accused, apart from other conditions, the learned Sessions Judge imposed the following conditions:-

“9(6). The applicants shall surrender their passport to the investigating officer. If they do not possess passport, they shall file affidavit in that regard.

..

9(8). Applicants shall not leave Mumbai without prior permission of this Court.”

considering the fact that the Applicant has to frequently visit Panchgani to inspect and monitor construction of the resort.

5. The Applicant filed an application before the learned Sessions Judge inter alia seeking modification of condition nos.9(6) and 9(8) and sought leave to travel abroad from 11.07.2023 to 17.07.2023 for business purpose. The learned Judge has rejected the request to modify these two conditions and rejected permission to travel abroad mainly on the ground that the application for travel abroad was filed within a month from the date of the order.

6. Learned Counsel for the Applicant states that the Applicant is a businessman and he has to travel from Mumbai to Kuala Lumpur to Bali, for business purpose. The Applicant has placed on record copy of the air ticket. It is stated that the Applicant has undertaken development/construction of a resort at Panchgani. The Applicant has invested huge amount in the said project which needs to be monitored. Learned Counsel for the Applicant further states that the Applicant has to travel to Panchgani to inspect the said project.

7. The Applicant is a businessman and has to travel to Kuala Lumpur to Bali for business purpose. His business will be hampered if he is not permitted to travel abroad. Furthermore, considering the fact that the Applicant has to frequently visit Panchgani to inspect and monitor construction of the resort, the condition not to leave the city of Mumbai is also onerous. The reasons for rejection of the application are not justifiable and cannot be sustained. In the circumstances, the application is allowed on the following terms and conditions:-

- (i) The Applicant shall file his itinerary within the course of the day.
- (ii) The Applicant is permitted to travel from Mumbai – Kuala Lumpur - Bali and back as per the itinerary;

- (iii) The Applicant shall give his contact details and address during the said period to the Investigating Officer;
- (iv) The Investigating Officer shall hand over the passport to the Applicant;
- (v) The Applicant shall report to the Investigating Officer within four days from the date of his return, and return his passport to the Investigating Officer.
- (vi) Condition No. 9(8) which prevents the Applicant from leaving the City of Mumbai, stands relaxed.

. **Application stands disposed of.**

(ANUJA PRABHUDESSAI, J.)