



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

CRIMINAL APPLICATION NO. 184 OF 2023

VISHAL BALWAN CHAUDHARY ..APPLICANT
VS.
STATE OF MAHARASHTRA ..RESPONDENT

Mr. Megshyam Kochrekar a/w Mr. Shubham Kadam i/b Mr. Randhir Kale & Vishal Kolekar, for the applicant.
Ms. Rutuja Ambekar, APP for the State.
API- Mr. Sachin Patil, ATS, Juhu Unit, Mumbai present.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 10, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This application challenges an order dated 25/07/2023 passed by the Additional Sessions Judge, Mumbai. By this order, the trial Court refused to modify condition no. 5 which it had imposed while enlarging the applicant.
- 3.** Briefly stated it is the case that on 04/10/2020, the informant- Ulhas Uttam Parab received a call from an unknown person informing him about some criminal act which was intended to be

committed. The investigating agency found that the call was made from a private number. On the basis of the investigation, it revealed that the call was made from Australian mobile number. The investigating officer took voice samples of the applicant. The voice samples revealed that call was made by the present applicant. The trial Court enlarged the applicant on bail by order dated 01/04/2023 by imposing various conditions. One of the condition was that the applicant shall not leave India without permission of the trial Court. The applicant is a student.

4. It is submitted by learned counsel for the applicant that he wants to pursue post-graduation in Masters of Business Administration at Universal Business School, Sydney, Australia. It is further submitted that the applicant has received an offer and acceptance of enrollment. The offer letter is valid only for 30 days. The offer indicated the applicant's personal details, course details, conditions of enrollment, payment schedule informing the applicant about the details about the course which will start from 11/09/2023 to 07/09/2025. The offer is valid only for 6 months. The applicant is holding the Indian passport and is holding a valid temporary graduate (subclasss 485) Visa of Australia for a period of 2 years

from 06/02/2023 to 06/02/2025. The applicant is seeking to travel abroad for the period from 07/09/2023 to 07/09/2024 for pursuing post-graduation in Masters of Business Information Systems at Australia.

5. Learned APP opposed the application by stating that because of such call made, not only the security arrangements are jeopardized but investigating agency had to put in lot of efforts in investigating the matter. It is submitted that the application should be rejected.

6. The applicant is a student. The charge-sheet has been filed. The investigation is complete. The applicant has filed an affidavit in this Court stating that he will not apply for Australian citizenship during the pendency of the trial. It is further stated by him that he will furnish his residential details of Australia and documents to the investigating officer. It is further stated that he is holding valid temporary graduate (subclass 485) Visa of Australia for a period of two years from 06/02/2023 to 06/02/2025 to pursue his post graduation studies. It is stated that the applicant has engaged a lawyer to represent him in the trial Court and that he has instructed him to go ahead with the trial. It is further stated that the applicant shall not dispute his identity to conduct the trial. It is further stated

that if the trial Court directs him to appear before him in that event, the applicant undertakes to remain present before the trial Court.

7. The applicant's father-Shri Balwan Singh has also filed an affidavit stating that he is the owner of the immovable property comprising of one acre situated at Pabnawa, District – Kaithal, Haryana and till conclusion of the trial, he shall not create third party interest in the suit property. The assurance is given by the applicant's father on behalf of the applicant.

8. Considering that the applicant is a student who wants to pursue studies abroad, having regard to the affidavits and undertakings given to this Court, in my opinion, the present application can be allowed in the facts and circumstances of the present case.

9. The applicant Visahl Balwan Chaudhary is permitted to travel to Australia from 07/09/2023 to 07/09/2024 to pursue post-graduation in Masters of Business Information Systems at Australia Institute of Higher Education, Australia.

10. The applicant and his father to abide by the statements made in the affidavits which have been filed and taken on record. Learned counsel for the applicant submitted that to show his bonafides, the

applicant is willing to deposit costs of Rs.25,000/- with the Maharashtra Centre Police Welfare Fund having Account No. 914010029005759 and IFSC Code No. UTIB0000060 within 2 weeks. The statement is accepted.

11. The Criminal Application is allowed in the above terms and disposed of.

(M. S. KARNIK, J.)