

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

CRIMINAL APPLICATION NO. 1176 OF 2023

Santosh B. Powle

..Applicant.

Versus

The State of Maharashtra

..Respondent

Ms. Keral Mehta a/w. Mithilesh Mishra i/b. Agastya Desai for Applicant.

Mr. Arfan Sait, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 15 SEPTEMBER 2023

PC :

1. The Applicant has prayed for relaxation of the condition imposed by the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai, in his order dated 07.09.2023 passed below Application dated 01.09.2023 in C.C.No.2800465/PW/2017.

2. Heard Ms. Keral Mehta, learned counsel for the applicant and Mr. Arfan Sait, learned APP for the State/Respondent.

3. Learned counsel for the applicant submitted that, he is one of the accused in the said case pending before that Court. The

trial has not yet commenced. The trial arises out of C.R.No.493 of 2015 registered at L. T. Marg police station, U/s. 406, 420, 465, 467, 468, 471 and 120-B of the I.P.C. The applicant was granted anticipatory bail vide order dated 05.12.2016 passed by the Additional Sessions Judge, Greater Mumbai, in A.B.A.No.1500 of 2016. One of the conditions was that, the applicant shall not leave his normal place of residence without previous permission of the Court. Therefore, every time when the applicant wants to travel abroad, he has been seeking permission from the Trial Court.

4. Learned counsel for the applicant invited my attention to four previous orders whereby the learned Trial Judge had permitted the applicant to travel abroad. Those orders are annexed at page Nos.60, 62, 64 and 66 of the memo of this application. Those orders were passed on 02.09.2022, 01.10.2022, 19.01.2023 and 17.03.2023. Hence, the record shows that, on four occasions previously the applicant was permitted to travel abroad. The record shows that, he has come back to India and has not violated any conditions of those orders. Now, the applicant again wants to travel to Dubai and for that purpose, he made an application on

01.09.2023. This time, vide impugned order dated 07.09.2023, though the application was allowed, the applicant was directed to deposit cash security of Rs.3 lakhs in the trial Court. Learned counsel for the Applicant submits that, this condition was never imposed on the past four occasions and this condition is not necessary even now. The impugned order mentions that the permission was granted to travel abroad between 09.09.2023 to 25.09.2023, 10.10.2023 to 25.10.2023 and 10.11.2023 to 25.11.2023. Considering that, in the past, no such condition was imposed and that the applicant has returned to India without violating the conditions; on this occasion, such condition is not necessary.

5. Hence, the following order:

ORDER

- i) The order dated 07.09.2023 passed by the Metropolitan Magistrate, 28th Court, Esplanade, Mumbai, passed below Application dated 01.09.2023 in C.C.No.2800465/PW/2017 is modified.

- ii) The condition to deposit cash security of Rs.3 lakhs in the Trial Court is deleted.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)