

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3712 OF 2023

IN

WRIT PETITION NO.3446 OF 2022

Anantha Narayanan Iyer

...Applicant/Petitioner

Versus

Union of India,
Through Ministry of Home
Affairs & Ors.

...Respondents

Mr. Faiz Merchant a/w. Mr. Ramiz Shaikh and Mr. Rishi Bindra i/by
M/s. Rizwan Merchant & Associates for the Applicant/Petitioner.

Mr. Shreeram Shirsat for Respondent Nos.1, 3 and 4.

Mr. Harsh Dedhia i/by Mr. Venegavkar for Respondent No.6.

CORAM : G. A. SANAP,
JITENDRA JAIN, J.J.

DATED : 11th November 2023
(Vacation Court)

P.C.

. This interim application is taken out by the

Applicant/Petitioner praying for following reliefs:-

"a. This Hon'ble Court be pleased to record compliance of the Order dated 11.01.2023 and take up the Criminal Writ Petition for final hearing and disposal.

b. Pending the final hearing of the Criminal Writ Petition this Hon'ble Court be pleased to permit the Petitioner to travel to Ohio, USA from 18.10.2023 for a period of 6 months and/or such period

as deemed fit by this Hon'ble Court.

c. Any other and further direction this Hon'ble Court may deem fit."

2. This interim application was filed on 7th October 2023. However, due to paucity of time, it could not be taken up.

3. Today praecipe is moved by the Applicant requesting vacation bench of this Court to assemble for urgent relief on the ground that the Petitioner is a green card holder and as per policy manual (Chapter 3C) of United States Citizenship and Immigration Services, he has to stay in U.S. for 180 days in the calendar year. The Petitioner till today has stayed for 132 days and, therefore, to comply with the condition of 180 days of the policy manual for the green card holder, he is requesting permission to travel to U.S.A. from 12th November 2023 to 31st December 2023, so as to comply with the balance 48 days stay in U.S.

4. The Applicant would contend that he is a Chartered Accountant and senior citizen and has cooperated with all the summons issued by Respondent No.6, the last such compliance was in the month of August/September 2023 and as of today, there are no further summons issued by Respondent No.6. The Petitioner further contends that even when he was not in India, he has complied with the requisition made by Respondent No.6 through email. The Petitioner, therefore, request that if the permission is granted, then he will not lose

the green card as per U.S. Policy Manual for the green card holder. The Applicant has further stated that he is willing to return to India in the first week of January 2024, so as to make himself available to Respondent No.6 for any further investigation.

5. Mr. Dedhia, learned counsel appearing for Respondent No.6 the contesting Respondent has fairly stated that the Applicant throughout the investigation has cooperated with the summons issued and furnished the documents and information required from time to time. Respondent No.6 does not have any serious objection, if the prayers as sought for by the Petitioner is granted. However, the Respondents submitted that the Applicant should return to India immediately on the expiry of 31st December 2023, since they want to complete the investigation before March 2024. Learned counsel for Respondent No.6 has also brought to our attention an order dated 11th January 2023 passed by a coordinate bench of this Court, whereon terms and conditions specified therein the Court has granted permission to travel to the Applicant to U.S.A. for the social purpose. He, therefore, prayed that on same terms and conditions, if the Applicant is allowed to travel, he has no serious objection. Learned counsel for Respondent Nos.1, 3 and 4 also has no serious objection to the said prayer. We are informed that the Applicant has served Respondent No.2, but they are not represented today. The Applicant is, therefore, requested to file an

affidavit of service by today evening to this effect.

6. Having heard learned counsel for the Applicant and Respondent Nos.1, 3, 4 and 6, we are of the view that in the light of their being no serious objection from Respondent Nos.1, 3, 4 and 6, the prayer as made by the Applicant is required to be allowed. Admittedly, the Applicant has cooperated with the investigation carried out by Respondent No.6 and similar prayer to travel was made in the month of January 2023, pursuant to which, this Court allowed the Applicant to travel to U.S.A. The Applicant has complied with all the conditions of the said order and after having visited U.S.A. has returned back to India. Furthermore, there is no material on record nor anything is shown to us by the Respondents which would indicate that the Applicant would not return to India.

7. We, therefore, pass following order:-

- (i) The Applicant is permitted to travel to U.S.A. from 12th November 2023 and would return back to India on or before 7th January 2024.
- (ii) The look out Circular No.T-3/72/MBZO-II/2018/1632 dated 17th September 2019, issued by Respondent No.2 and look out Circular No.SF10/INV/2017-18/JET/1078-

1084/18857/2019 dated 27th December 2019 issued by Respondent No.6 against the Petitioners are hereby suspended for a period from 12th November 2023 to 7th January 2024.

(iii) Before leaving India, the Applicant shall give his detail address, land-line number, mobile number and email ID on which he can be contacted by Respondent No.6 by today evening.

(iv) The Applicant has furnished cash security of Rs.5,00,000/- as per earlier order dated 11th January 2023 which would continue to remain with the Registry of this Court.

(v) Applicant shall mark his presence with the office of the Indian High Commission situated at Washington D.C., U.S.A., on every first Monday of the month between 11.00 a.m. to 2.00 p.m. and shall keep record of the same.

(vi) The Respondent No.6 will be at liberty to call for the record from the Indian High Commission, Washington D.C., U.S.A. about attendance of the Applicant and in

case if it is noticed that the Applicant has not complied with the said condition, Respondent No.6 will be at liberty to move before this Court for recall of this order.

(vii) After coming back to India on or before 7th January 2024, the Applicant shall report his arrival to Respondent No.6 within a of 3 days from the date of his arrival.

(viii) Interim Application is disposed of in the above terms.

8. Writ Petition No. 3446 of 2022 to be listed on **15th January 2024.**

9. Parties to act on the authenticated copy of this order.

[JITENDRA JAIN, J.]

[G. A. SANAP, J.]