

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****WRIT PETITION NO. 3695 OF 2023**

Chaitya Rajesh Shah

.. Petitioner

Versus

Union of India & Ors.

.. Respondents

Mr. Yash Agarwal a/w. Rahul Agarwal, Jasmin Purani i/b. Agarwal and
Dhanuka, Legal Advocate for the Petitioner.

Mr. S. K. Halwasia, Addl. P.P. for Respondent Nos.1 & 2.

Mr. Y. M. Nakhwa, APP, for Respondent No.3-State.

**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 7th DECEMBER, 2023.

JUDGMENT: [PER:- SHYAM C. CHANDAK,].

- 1) Rule.
- 2) Rule made returnable forthwith. With consent of the learned counsel for the respective parties, taken up for hearing.
- 3) Heard Mr. Agarwal, learned Advocate for the Petitioner, Mr. S. K. Halwasia, learned Addl. P.P. for Respondent Nos. 1 and 2 and Mr. Nakhwa, learned APP for Respondent No.3-State.
- 4) By this Petition filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the Petitioner seeks permission to travel overseas from 10th December, 2023 to

21st December, 2023 i.e. Hong Kong, Macau and Shenzhen, China for his business purpose.

5) Learned Advocate for the Petitioner submitted that, the Petitioner is a businessman in Jewellery sector. But the Petitioner is not able to travel to abroad and do his business properly, due to issuance of LOC against. Meanwhile, there were changes in circumstances, therefore, the Applicant was permitted to travel abroad on two occasions. Thus, it is apparent that, the Applicant is not a flight risk. The Applicant is ready to abide by all the conditions that may be imposed to permit him to travel abroad.

6) Mr. Halwasia, learned Addl. PP for Respondent Nos. 1 and 2 have opposed the Application strongly.

7) There is no dispute that, on previous occasions, this Court permitted the Applicant to travel abroad on certain conditions. The Petitioner had fulfilled those conditions. As such, the Petitioner is not a flight risk.

8) In view thereof, and considering the observations of this Court in the earlier orders, we are inclined to allow the Applicant to travel abroad i.e. to Hong Kong, Macau and Shenzhen, China from 10th December, 2023 to 21st December, 2023, for his business purpose, on the following terms and conditions:

- (i) During the said period of travelling to Hong Kong, Macau and Shenzhen, China from 10th December, 2023 to 21st December, 2023, the LOC issued at the instance of the SFIO shall stand suspended;
- (ii) The Applicant, before his departure as above, to file an affidavit-cum-undertaking with the Registrar (Judicial-I), Appellate Side of this Court, setting out the full itinerary of his overseas travel with all details, including the address where he would stay, telephone/mobile/contact numbers, on which he can be contacted during the said period;
- (iii) A copy of the said affidavit-cum-undertaking shall also be furnished to the SFIO, before the applicant's departure;
- (iv) The Applicant before his departure as above, shall deposit the valid passport of his wife and children with the office of SFIO;
- (v) The Applicant before his departure shall also submit copies of his tickets for the onward and return journeys, to the SFIO as well as before the Registrar (Judicial-I), Appellate Side, of this Court and also inform the SFIO of his return back to India within 48 hours of his return;

- (vi) The Immigration Authorities on all points of departure, will permit the Applicant to pass through immigration and to board his flight or flights, irrespective of whether the immigration system has been updated and whether the SFIO has informed the Immigration Authorities or not;
 - (vii) Learned Addl. PP for Respondent Nos.1 and 2 to communicate this order to the Immigration Authorities forthwith and in any event within 24 hours of this order being uploaded;
 - (viii) The Applicant shall not apply for renewal or extension of this Order until he returns to India.
- 9) The writ Petition is allowed in the aforesaid terms.
- 10) Stand over to 22nd December, 2023 for recording compliance of the aforesaid order and return of the passport of the Applicant's wife.
- 11) All concerned to act on the authenticated copy of this order.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)