

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 853/2023
IN
CRIMINAL APPLICATION (ABA) NO. 857/2019

Nikunj s/o Ramakant Harlalka and others vs State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr Pratik J. Mehta, counsel for the applicants.

Mr. A.M.Kadukar, APP for the State.

Mr S.V. Sirpurkar, counsel (Assist to Prosecution)/Ori. Complainant.

CORAM : **URMILA JOSHI-PHALKE, J.**
DATE FOR RESERVE: 15/06/2023
DATE OF DECISION : 16/06/2023

1. Heard.
2. By this application, the applicants are seeking permission to permit them to travel Abroad i.e. Italy (Vienna) during the period from 19/06/2023 to 01/07/2023 (including travel days for business purpose). The application is supported with an itinerary i.e. applicants flight tickets from travel from India (Mumbai) to Italy (Vienna) dated 19/06/2023 and returned flight ticket travel from Italy (Naples) to India (Mumbai) dated 01/07/2023.
3. I have heard learned counsel for the respective parties.
4. Learned counsel Mr P.J.Mehta for the applicants submits that the right to travel Abroad is an important basic

human right. He submits that applicant No.1 received the invitation to visit the Company i.e. "CAPUA Visionary Citrus" (Campo Calabro, Italy), for two weeks. It is requested by the C.E.O. of the said Company that applicant No.1 shall visit his company for two weeks anytime in June-July-2023 to see the citrus growing regions and explore the possibility of trade in Citrus Essential Oils, given his expertise in Natural Essential Oils.

In response to the letter for business purpose, he has to visit Italy (Vienna) and he undertook that he will return back on 01/07/2023 and requested that he be permitted with other applicants to travel Abroad. The other reason mentioned in the application is that, he also visiting the said place for family gathering also, therefore, other applicants are also joining him to travel Abroad.

5. He submits that the list of immovable properties at Mumbai has been submitted to this Court to show that there are deep roots of the applicants in the society and there is no possibility of being absconding or not remaining present for trial.

6. Learned APP Mr A.M. Kadukar opposes the said application.

7. Mr S.V. Sirpurkar learned counsel appearing on behalf of the complainant opposed the application on the ground that the applicant has already sold out his flat situated at Malhad (East) Mumbai. Thus there is every possibility that he

would not return back to India. The applicant No.1 has also not paid the maintenance arrears, and if he is permitted, it will be difficult to secure his presence and prays for rejection of the same.

8. Having heard both the parties, I have perused the application. The present application is supported with travel tickets as well as the invitation card received by the applicant from the above mentioned Company.

9. Learned counsel placed reliance of the Hon'ble Supreme Court of India, in the case of ***Satish Chandra Verma Vs Union of India and others*** reported in 2019 SCC OnLine SC 2048, wherein in para-5 which reads thus:

"5. The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right. (See: Mrs. Maneka Gandhi v. Union of India and Another (1978) 1 SCC 248). In the said judgment, there is a reference to the words of Justice Douglas in Kent v. Dulles 357 US 116(1958) which are as follows:

"Freedom to go abroad has much social value and represents the basic human right of great significance."

10. In the light of the above observation made by the Hon'ble Apex Court in the case of ***Satish Chandra Verma Vs. Union of India*** referred (supra) and in view of the fact that

applicant possess the immovable properties in Mumbai, I am of the opinion that present application needs to be allowed by imposing certain conditions. Accordingly, criminal application is allowed on the following terms and conditions:

- a) Criminal Application is **allowed**.
- b) The applicant Nos. 1 to 3 are permitted to travel Abroad from Mumbai (India) to Italy (Vienna) from 19/06/2023 to 01/07/2023.
- c) The applicant No.1 shall submit his property details situated in Mumbai as well as other cities along with documents.
- d) The applicant No.1 shall deposit the arrears of the maintenance, if any, before proceeding to Italy (Vienna).
- e) Criminal Application is disposed of accordingly.

JUDGE