



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

958 CRIMINAL WRIT PETITION NO. 1765 OF 2023

Awadhesh Kumar Pathak

Versus

The State Of Maharashtra

Advocate for the Petitioner : Mr. Sanjeev B. Deshpande, senior
advocate i/b Mr. Pavan P. Uttarwar
APP for Respondent: Mr. S.A. Gaikwad

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 5th JANUARY, 2024.

PER COURT :-

1. This writ petition is directed against the order passed by the learned Additional Sessions Judge, Aurangabad, in Criminal Revision application No. 288 of 2022 dated 19.10.2023, by which the order dated 7.11.2022 of learned J.M.F.C. Aurangabad, passed in Criminal M.A. No.2395 of 2022 was confirmed.

2. The petitioner prayed for handing over the passport which is deposited in the court of learned J.M.F.C. Aurangabad. Learned senior counsel appearing the petitioner pointed out the impugned orders passed by the learned J.M.F.C. Aurangabad and the Additional Sessions Judge, Aurangabad. In the earlier order passed by the J.M.F.C. it was observed that no any documentary evidence about the permanent residential address of the petitioner is filed on record. Thereafter, again fresh application alongwith all relevant

documentary proof of resident was submitted. The learned Magistrate held that the petitioner may flee away abroad and may not remain present before the court and presence of the petitioner cannot be secured, as he is going abroad alongwith his family members.

3. The learned Sessions Court held that the reasons given by the learned Magistrate are correct. No interference is warranted in the order passed by learned Magistrate.

4. The petitioner is prosecuted under Section 408, 420 of I.P.C. and under Sections 43, 66 and 72 of Information Technology Act, 2005. It is alleged that he has stolen the data having secret and vital information from the informant's industry thereby causing grave loss to the said company.

5. The petitioner has filed his residential proof and he has roots in Aurangabad city itself. He has filed copy of sale deed of house property, Aadhaar card. The F.I.R. in question does not disclose as to how much loss would likely to cause to the informant's company. The F.I.R. also does not disclose whether any overact is committed by the petitioner after the alleged commission of theft of data and caused damage to the said company. Considering all these aspects, this court has also granted anticipatory bail to the applicant. The petitioner is having roots in Aurangabad city having immovable property i.e. house property. Therefore, it cannot be inferred that he

will flee away and will not come back from abroad to face the trial.

6. Considering all these aspects, it would be proper to release the passport of the petitioner to enable him to go abroad. Thus, the petition deserves to be allowed. The writ petition is accordingly allowed on the following conditions:-

- a) The learned J.M.F.C. is directed to release the passport of the petitioner on deposit of an amount of Rs.2,00,000/- (Rupees Two lacs) in that Court. After deposit, the said amount shall be invested in any Nationalized Bank.
- b) The said amount of Rs.2,00,000/- shall be refunded to the petitioner with interest, if any, after the petitioner returns back from abroad and redeposits the passport with the court of J.M.F.C..

(SANJAY A. DESHMUKH, J.)

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