

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 137 OF 2024**

Prashant Ramesh Shah ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. Rajesh Singh a/w. Mr. Rahul Singh for applicant.

Mr. Balraj B. Kulkarni, APP for respondent-State.

Mr. Chorge, PSI, Malabar Hill Police Station.

**CORAM : MANISH PITALE, J.
DATE : 14th JUNE, 2024**

P.C. :

. Heard learned counsel for the applicant and the learned APP for the State.

2. By this application, the applicant is seeking modification of a condition imposed by the Court of Metropolitan Magistrate, Mumbai in its order dated 30.01.2020, whereby bail was granted to the applicant. One of the conditions required the applicant to deposit his passport in the Court.

3. The applicant is facing prosecution alongwith other accused persons for offences under Sections 409 and 420 read with Section 34 of Indian Penal Code, 1860, registered with Malabar Hill Police Station.

4. The learned counsel for the applicant submits that the dispute has essentially arisen between family members and as on today, the parties are undergoing mediation, as per order dated 03.11.2023, passed by the Division Bench of this Court in Criminal Writ Petition No.3999 of 2022, which is filed by the applicant and others for quashing of chargesheet.

5. It is further submitted that on an earlier occasion, when the applicant was required to travel abroad, he had applied to the Magistrate for release of his passport and for permission to travel. The said application was rejected by order dated 14.02.2023. The applicant challenged the said order by filing criminal revision application before the Sessions Court at Mumbai. By order dated 22.02.2023, the revision application was allowed and the Court directed the passport of the applicant to be returned to him for limited period to make his visit abroad and then to return his passport.

6. Subsequently, on another occasion, the Magistrate passed an order dated 02.06.2023, again allowing the passport of the applicant to be returned to him for limited period to make his visit abroad and then to return the passport on the same conditions as imposed by the Sessions Court.

7. Now when the applicant is required to visit Hongkong in the light of an invitation dated 01.06.2024 received from ITSS Limited, Hongkong for an exhibition, the applicant is unable to approach the Magistrate, for the reason that the Division Bench, by its order dated 06.10.2023 in Criminal Writ Petition No.3999 of 2022, has stayed further proceedings before the Magistrate. Subsequently, by the aforesaid order dated 03.11.2023, the parties have been referred to mediation and the mediation proceedings are pending.

8. In this backdrop, the learned counsel for the applicant submits that this Court may consider modifying and deleting condition No.(e) in the order dated 30.01.2020 passed by the Magistrate, so that the passport is returned and the applicant is able to travel abroad. It is submitted that if this Court is

of the opinion that the application needs to be heard at length, interim relief in terms of prayer clause (c) may be considered. The applicant undertakes to abide by the conditions that may be imposed by this Court.

9. The learned APP submits that in the facts and circumstances of the present case, particularly when the Division Bench of this Court has stayed the proceedings before the Magistrate, in the fitness of things, the applicant ought to have approached the Division Bench of this Court in Criminal Writ Petition No.3999 of 2022. It is submitted that no case is made out for seeking modification of the aforesaid condition imposed by the Magistrate.

10. While this application can be kept pending for hearing in detail, considering the urgency in the matter, as the applicant is required to visit Hongkong from 18.06.2024 to 28.06.2024, this Court is inclined to consider the prayer for interim relief.

11. Record shows that as on today, the parties are in the process of mediation. The offence has been registered in the backdrop of a dispute arising within the family of the applicant. It is perhaps for this reason that the Division Bench of this Court has stayed the proceedings before the Magistrate.

12. On earlier occasions, when the stay order was yet to be passed, the applicant had indeed approached the Magistrate in the first instance for such permission to visit abroad.

13. Considering the fact that on two earlier occasions, the applicant had abided by the specific conditions imposed by the Sessions Court and the

Magistrate and he returned back to India, this Court is inclined to grant interim relief to the applicant, while keeping the present application pending.

14. In view of the above, there shall be interim relief in the following terms:

- (i) The Court of the concerned Magistrate shall return the passport of the applicant for limited period of time;
- (ii) the applicant is granted permission to travel to Hongkong from 18.06.2024 to 28.06.2024.
- (iii) since the cash security of ₹ 1 lakh, as per order dated 22.02.2023 of the Sessions Court, is still lying in deposit, it shall be treated as cash security of the applicant;
- (iv) the applicant shall place on record before this Court during the course of the day the details of the travel itinerary and the places of stay as well as contact numbers in Hongkong during his visit;
- (v) the applicant shall return the passport to the Court of the concerned Magistrate on or before 30.06.2024.

15. List the application for further consideration on 03.07.2024, High on Board.

(MANISH PITALE, J)

Priya Kambli