

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3642 OF 2024
IN
CRIMINAL APPLICATION NO.137 OF 2024

Prashant Ramesh Shah ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Rajesh Singh a/w. Mr. Rahul Singh and Mr. Ranjan Mishra for Applicant.
Mr. Balraj B. Kulkarni, APP for Respondent-State.
Mr. Ishwar Chorge, PSI, Malbar Hill Police Station.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 12, 2024

P.C. :

. Today Interim Application No.3642 of 2024 is listed for consideration. Having heard Mr. Singh, learned counsel for the applicant as well as Mr. Kulkarni, learned APP, this Court is of the opinion that the main application i.e. Criminal Application No.137 of 2024 itself can be disposed of.

2. By the said main application, the applicant is seeking modification / deletion of condition (e) imposed by the Court of Metropolitan Magistrate in the order dated 30.01.2020, whereby bail was granted to the applicant. The said condition reads as follows:-

“e) Accused shall deposit their passports in the Court until further orders.”

3. The learned counsel for the applicant submits that every time the applicant is required to travel abroad due to work related to his business, he has to apply for release of his passport. It is brought to the notice of this Court that earlier, on three occasions, by various orders passed by

the Sessions Court, the Magistrate and this Court, passport of the applicant was released for limited period, so that he could travel abroad in connection with his work. He submits that on every occasion when the applicant is required to travel abroad, he is constrained to move the Court. It is also brought to the notice of this Court that in a writ petition filed by the petitioner seeking quashing of FIR and charge-sheet, on 06.10.2023, the Division Bench of this Court stayed the proceedings before the Magistrate. Subsequently, the parties were referred to mediation and the writ petition bearing Criminal Writ Petition No.3999 of 2022 is still pending before the Division Bench. The interim order continues to operate. As a consequence, the applicant is constrained to move this Court. It is submitted that this Court may consider deleting condition (e) of the said order dated 30.01.2020, as the applicant is ready to abide by any other condition that this Court may impose.

4. The learned APP submits that since the writ petition is pending before the Division Bench, it may be appropriate for the applicant to approach the Division Bench in the pending writ petition for grant of such prayer. It is further submitted that the direction to deposit the passport was issued as the concerned Court felt it necessary to ensure the presence of the applicant and his co-operation in the proceedings before the said Court.

5. This Court has perused the material on record. The order granting bail to the applicant specifically records that the custody of the applicant was no longer necessary, and hence, he was enlarged on bail along with the co-accused persons.

6. It is relevant to note that the informant, in the present case, is the brother of the applicant and the FIR has been registered in the context of a Will of their aunt.

7. A perusal of the order dated 30.01.2020 passed by the Metropolitan Magistrate, wherein condition (e) is imposed, does not divulge any specific reason as to why the Magistrate felt it appropriate to direct the applicant to deposit his passport.

8. It is also significant that earlier, on three occasions, the applicant was permitted to travel abroad by allowing his passport to be released for limited period of time. On 22.02.2023, the Sessions Court, in Criminal Revision Application, granted such relief to the applicant. Subsequently, on 02.06.2023, the Court of Magistrate, itself, granted such relief. Thereafter, the applicant was constrained to move an interim application in the present proceedings, wherein on 14.06.2024, this Court granted such limited relief to the applicant.

9. The applicant is constrained to move this Court as the proceedings before the Magistrate have been stayed in terms of the order dated 06.10.2023, passed by the Division Bench.

10. It is undisputed that on all the three occasions, the applicant was permitted to travel abroad in terms of the aforesaid orders passed by the Sessions Court, the Magistrate and this Court, he did abide by the conditions imposed and he duly deposited his passport upon returning from his travel abroad. The conduct of the applicant is taken note of by this Court. It is found that the applicant is repeatedly required to move such applications for release of his passport for travelling abroad in connection with his business and there is multiplication of such applications over a period of time.

11. In view of the above, this Court is of the opinion that condition (e), quoted hereinabove, can be deleted with an additional condition being imposed on the applicant to address the anxiety expressed by the learned APP. The contention that such a prayer could be made before the

Division Bench in the pending writ petition does not need consideration because the present application has been moved for modification / deletion of condition imposed by the Magistrate and the present application is clearly maintainable before this Court.

12. Accordingly, Criminal Application No.137 of 2024 is allowed and condition (e) in the order passed by the Magistrate on 30.01.2020, quoted hereinabove, stands deleted and the passport of the applicant shall be returned to him, subject to the following condition to be satisfied by the applicant:-

“The applicant shall place before the investigating officer, the details of his travel plan, itinerary, including contact numbers on each occasion that he travels abroad during the pendency of the proceedings before the competent Court.”

13. In view of the application being allowed, the amount of Rs.1,00,000/- deposited by the applicant before the Court of Magistrate shall be returned forthwith.

14. In view of the main application bearing Criminal Application No.137 of 2024 being allowed, pending interim applications stand disposed of.

(MANISH PITALE, J.)

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