

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 924 OF 2024

Jayesh Paramanand Khandwala .. Applicant

Versus

Central Bureau of Investigation and Anr. .. Respondents

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Mr. Niranjan Mundargi i/b Mr. Kandarp Trivedi & RHP Partners, for Applicant.

Mr. Kuldeep Patil, for Respondent – CBI.

Ms. Anuja S. Gotad, APP for Respondent – State.

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CORAM : SANDEEP V. MARNE J.

DATE : 30 JULY 2024.

P.C. :-

1) Leave granted to amend the Criminal Application so as to incorporate challenge to the order dated 23 July 2024. Amendment to be carried out forthwith.

2) The limited challenge raised in the present application is to condition No.4 in the operative portion of order dated 18 July 2024 by which

the Applicant is permitted to travel abroad to Switzerland during 2 August 2024 to 13 August 2024. While granting such permission, the learned Special Judge (CBI) has incorporated following condition No. 4 in the order :-

“The applicant/ accused is directed to attend the Embassy of India or its allied Offices at-least once during his stay in Switzerland and to request the Embassy of India to issue an attendance certificate in his favour. If such attendance certificate is issued, he may file the same in the Court after returning back to India”.

3) Heard Mr. Mundargi the learned counsel appearing for the Applicant and Mr. Patil the learned counsel appearing for Respondent – CBI, who would oppose the application.

4) It appears that the Applicant has been permitted to travel abroad on several occasions in the past. Various orders passed by the learned Special Judge granting permission to the Applicant to travel abroad from 2017 to 2023 are placed on record. It appears that the Applicant has been permitted to travel to Dubai in 2017, Seoul, Korea and Japan in 2018, Denmark, Norway and Sweden in 2019, Dubai in 2019, Turkey in 2022 and again Turkey in 2023. None of the orders previously passed granting permission to travel abroad contained a condition similar condition No. 4 incorporated in the order dated 18 July 2024. The learned Judge has not recorded any special reason for incorporating the additional condition in the order dated 18 July 2024.

5) It appears that the Applicant filed application at Exhibit - 317 for relaxation of condition No. 4 which has been rejected by the learned Special

Judge by order dated 23 July 2024 observing that one of the locations proposed to be visited by the Applicant during his stay at Switzerland is the City of Interlaken, which is at a distance of 56.5 km from Berne in which Embassy of India is located. The learned Judge has therefore held that the Applicant can conveniently visit the city of Berne and seek issuance of attendance certificate from Embassy of India during the course of his stay at Interlaken.

6) Perusal of the language employed by the learned Special Judge in condition No.4 would indicate that the direction to attend the Embassy of India is mandatory whereas making a 'request' for issuance of attendance certificate by Embassy as well as filing of such attendance certificate in the Court does not appear to be mandatory. Thus, what is excepted from the Applicant is merely to make a request to the Embassy for issuance of attendance certificate and only if such attendance certificate is issued, filing thereof before the Court is left to the discretion of the Applicant. It is therefore, difficult to comprehend as to what exact purpose would be achieved by making a visit to Embassy of India and merely requesting issuance of an attendance certificate. The direction itself contemplates a situation that if Embassy refuses to issue the attendance certificate, in which event, it is not even mandatory for the Applicant to file the same before the Court.

7) Be that as it may. None of the orders previously passed since the year 2017, direction for marking mandatory attendance with the Embassy of India was incorporated. No special reasons are recorded by the learned Judge why this additional condition is necessary this time for permitting travel

abroad to Switzerland. It also appears that the Appellant has not violated any of the conditions imposed on him while permitting him to travel abroad and he has returned to India.

8) In that view of the matter, the condition for mandatory attendance at the Embassy of India in Switzerland need not be enforced.

9) Accordingly condition No.4 incorporated in the order dated 18 July 2024 shall stand deleted.

10) With the above directions, the Criminal Application is disposed of.

[SANDEEP V. MARNE J.]

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Date:
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