

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

***INTERIM APPLICATION NO. 987 OF 2024
IN
CRIMINAL WRIT PETITION NO. 749 OF 2024***

Hiten Khatau

.... Applicant

Versus

1. The Union Of India
2. Bureau of Immigration
3. State of Maharashtra, EOW, Unit-3, Mumbai.
4. State of Maharashtra

.... Respondents

Mr. Aabad Ponda a/w Adv. Siddhikesh Ghosalkar, Ms. Savani Gupte, Ms. Siddhi Somani, Ms. Palak Singh i/b Samvad Partners, for the Applicant.

Mr. D. A. Dubey a/w Mr. Rupesh Dubey, Mr. Sachidanand, for the Respondent No.1 & 2 – UOI.

Ms. P. P. Rane, A.P.P for the Respondent – State.

Mr. Yogesh R. Pawar, P.I., EOW, Mumbai, Unit-4, is present.

***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 7th MARCH 2024

P.C. :

1. Heard learned counsel for the parties.
2. At the outset, learned counsel for the applicant seeks leave to amend the prayer clause. Leave granted. Amendment to be carried

out forthwith, during the course of the day.

3. By this interim application, the applicant seeks permission to travel overseas, during the period from 14th March, 2024 to 3rd April, 2024, and seeks suspension of the Look Out Circular ('LOC'), issued as against him, at the behest of the respondent No.3 – Senior Inspector of Police, EOW, Unit-3, Mumbai, during the said period.

4. Perused the application. It appears that a F.I.R. was lodged as against the applicant on 12th February, 2024, initially with the MIDC Police Station, Mumbai, and subsequently transferred to the EOW, Unit-3, Mumbai, for the alleged offence punishable under Sections 120-B, 420, 406 of the I.P.C. It is not in dispute that post the registration of FIR on 12th February, 2024, the applicant, a Non-Resident Indian ('NRI') came to India on 16th February, 2024, and has appeared before the Senior Inspector of Police, EOW, Unit-3, Mumbai. The applicant attended the said office on four occasions and as such has co-operated with the investigation.

5. According to Mr. Ponda, learned senior counsel for the

applicant, there is a contractual dispute between the applicant and complainant and there is an arbitration proceeding pending between the parties. It is submitted that the applicant has also filed a petition, seeking quashing of the FIR, registered as against him before the Co-ordinate bench, and the said petition is pending.

6. Be that as it may, it appears that petitioner intends to travel overseas to retain his NRI status, for a short period. Learned A.P.P. opposes the application and submits that in the event the applicant is permitted to travel overseas, passport of applicant's son namely Rohan Khatau, be directed to be deposited with the EOW, Unit-3, Mumbai, during the said period. Mr. Ponda, learned senior counsel for the applicant has no objection to the same.

7. Considering what is stated aforesaid, the application is allowed on the following terms and conditions;

ORDER

- (i) The applicant is permitted to travel overseas during period from **14th March, 2024 to 3rd April, 2024** and during the said period, the LOC issued as against the

applicant, at the behest of respondent No.3 – Senior Inspector of Police, EOW., Unit-3, Mumbai, shall stands suspended;

- (ii) The applicant, before his departure, shall furnish the full itinerary of his overseas travel with all details, including the address where he would stay, telephone/mobile/contact numbers, on which he can be contacted during the said period, to the respondent No.3 – Senior Inspector of Police, EOW., Unit-3, Mumbai;
- (iii) The said itinerary to be submitted to the respondent No.3 – Senior Inspector of Police, EOW., Unit-3, Mumbai, atleast 48 hours prior to the applicant's travel;
- (iv) The applicant shall also deposit his son's i.e. Rohan Khatau's passport to the concerned officer of EOW., Unit-3, Mumbai, atleast 48 hours prior to the departure of the applicant;
- (v) The respondent No.3 – Senior Inspector of Police, EOW., Unit-3, Mumbai shall inform the Immigration Authorities of the order passed today, at the earliest and in any event within 48 hours of this order being uploaded;

- (vi) The Immigration Authorities, on all points of departure, will permit the applicant to pass through immigration and to board his flight or flights, irrespective of whether the immigration system has been updated and whether the EOW has informed the Immigration Authorities or not;
 - (vii) The applicant shall not apply for extension or renewal of this order, until he returns to India.
 - (viii) The applicant shall, on his return to India, within 48 hours, shall inform the EOW of his return. On his return, the EOW to return the applicant's son - Rohan Khatau's passport to the applicant.
8. Interim Application is allowed and disposed of in above terms.
9. All concerned to act on the authenticated copy of this order.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE, J.