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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3070 OF 2024
IN
BAIL APPLICATION NO.806 OF 2024

Riyaz Abdul Sattar Memon

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Zehra Charania a/w. Mr. Ayaz Khan, Ms. Mallika Sharma, for
the Applicant.

Mr. A.A. Naik, APP for the State.

CORAM : N. J. JAMADAR, J.

DATE : AUGUST 27, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant who is arraigned in NDPS Special Case No. 1219 of 2022 arising out of C.R. No. 25 of 2022 registered with ANC Police Station, Mumbai, for the offences punishable under sections 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 has preferred this application to relax and/or suitably modify the condition No. (vi) of the order dated 17th May, 2024 passed in Bail Application No. 806 of 2024 whereby the applicant has been enlarged on bail.

3. Condition No. (vi) reads as under:-

(vi) The applicant shall surrender his passport before the Special Court and shall not leave India without prior permission of the Special Court.

4. The applicant therefore approached the Special Court for permission to travel to UAE for a period of 20 days commencing from 6th July, 2024. The learned Special Judge was, however, persuaded to reject the application observing, inter alia, that in the Bail Application the applicant had not mentioned that he is a non-resident Indian.

5. In the instant application, it is averred that in terms of the aforesaid order the applicant has surrendered his passport before the Special Court. In the year 2015, the applicant has obtained UAE Visa of residence for business purpose. The term of the said Visa is to expire on 11th September, 2024. The applicant is a partner in a company under the name and style of “ELMAR Mechanical & Engineering Equipment Trading LLC”. It is, therefore, necessary for the applicant to travel to UAE to renew the Visa and attend to his business.

6. The applicant further avers that the applicant has roots in India. The applicant has settled business and properties in India. The wife of the applicant is a surgeon in a Hospital. The applicant has four children, who are studying in reputed schools in Mumbai. Therefore, the aforesaid condition puts hindrance in the travel of the applicant abroad to attend to his business. Thus the condition be relaxed or suitably modified.

7. On 22nd August, 2024 this Court indicated that the Court was not inclined to relax the condition of surrendering the passport and not leaving the country without prior permission of the Special Court, altogether. Thereupon, the learned counsel for the applicant sought permission to file an additional affidavit seeking permission to travel for a fortnight.

8. An additional affidavit has been filed by the applicant. It is reiterated that the applicant is a partner in UAE based company namely ELMAR Mechanical & Engineering Equipment Trading LLC. The resident Visa of the applicant would expire on 11th September, 2024. It is, therefore, necessary to travel abroad to renew the Visa and also sort out business related issues.

9. The learned APP resisted the prayer. It was submitted that the applicant has only produced a copy of commercial license of trading of ELMAR Mechanical & Engineering Equipment Trading LLC. It is required to be investigated as to whether ELMAR Mechanical & Engineering Equipment Trading LLC is genuine or a shell company. Therefore, the applicant does not deserve the permission to travel abroad.

10. I have given anxious consideration to the rival submissions. Having regard to the nature of the accusation and the material pressed into service by the prosecution, the Court is not inclined to

completely relax the aforesaid condition of surrendering the passport and not leaving the country without prior permission of the Special Court. As and when permission to travel abroad becomes necessary, the applicant can approach the Special Court for such permission.

11. In the case at hand, the applicant has placed on record sufficient material, in the form of the copies of the resident Visa and the commercial license and Memorandum of Association of ELMAR Mechanical & Engineering Equipment Trading LLC, to lend support to the claim that the applicant holds a resident Visa and that the applicant is required to travel to UAE to attend to the business commitments. It further appears that the wife and children of the applicant are based in Mumbai. The applicant appears to have sufficient roots to tie him down to his place of residence and business. It is true in the application for bail, the applicant had not disclosed that he holds a resident Visa of UAE. However, in the totality of the circumstances, especially having regard to the fact that the Visa of the applicant is stated to expire by 11th September, 2024, in my view, the permission can be granted to the applicant to travel to UAE for a period of 15 days.

Hence, the following order.

ORDER

- 1] The application stands partly allowed.
- 2] The applicant is permitted to travel to UAE from 2nd September, 2024 for a period of 15 days.
- 3] The applicant shall furnish a surety in the sum of Rs. 1 lakh or make a security deposit of Rs. 1 lakh in the Court of learned Special Judge, NDPS Court, Mumbai along with an undertaking to return back to India within 15 days thereafter.
- 4] The applicant shall furnish his contact details and address in UAE to the investigating officer and the applicant shall be always accessible to the investigating officer on the mobile phone.
- 5] The applicant shall furnish the details of the travel itinerary and the likely places he has to visit during the said period of 15 days, on an affidavit before the learned Special Judge.
- 6] Upon complying with the aforesaid conditions, the learned Special Judge shall return the passport to the applicant.
- 7] Upon return from UAE, within the aforesaid period of 15 days, the applicant shall again surrender his passport to the learned Special Judge.
- 8] The Special Court shall henceforth decide the application for permission to travel abroad in accordance with law.

Application disposed.

(N. J. JAMADAR, J.)