IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Interim Application No.3607 of 2024
In
Interim Application (ST.)No.17717 of 2024
In
Interim Application No.2769 of 2023
In
Criminal Application no.638 of 2022

Maiank Mehta
Age: 55 years, British National,
Residing at: Flat No.7A, Block 1,
Estoril Court, 55 Garden Court,
Hong Kong.
Currently residing at Flat No.21-A,
Atlas Apartments, Harkness Road,
Jamnadas Mehta Marg, Mumbai. … Applicant.

Versus

1) Central Bureau of Investigation
Banking Securities Fraud Branch,
Plot No.C-35A, G-Block,
Bandra-Kurla Complex,
Mumbai-400 098.

2) Enforcement Directorate
Through the Assistant Director,
Kaiser-e-Hind Building, Ballard Estate,
Fort, Mumbai 400 001.

3) Bureau of Immigration
Ministry of Home Affairs,
Through the Immigration Officer,
Government of India, East Block-VIII,

Level-V, Sector-1, RK Puram,
New Delhi-110066
Having its Mumbai address at:
Chhatrapati Shivaji Maharaj International
Airport, Navpada, Vile Parle-East,
Mumbai-400099.

4) State of Maharashtra … Respondents.

Mr Rohan Shah, Senior Advocate, along with Mr Manavendra Mishra, Mr Amey Mirajkar, Ms Swati Singh and Mr Ishwar Sethi i/by Khaitan & Co., for the applicant.
Mr Kuldeep Patil along with Ms Sampada Patil and Mr Muthu Kutti P., for respondent No.1/CBI.
Ms Amisha Salvi, holding for Mr HS Venegavkar for respondent No.2/ED.
Mr MG Patil, APP, for respondent No.4/State.

Coram: R.N.Laddha, J.
Date: 6 September 2024.

P.C.:

By this application, the applicant seeks permission to travel to Hong Kong, Shanghai, Dubai, the UK, and other parts of the world from 7 September 2024 to 10 February 2025. Additionally, the applicant also seeks the suspension of the Look Out Circular dated 19 July 2021 and any other circulars that may have been issued by respondents No.1 and 2 in connection with PMLA Special Case No.4 of 2018 for this duration.

2. The brief facts relevant to the present application are as

follows: The applicant, a British citizen, acts as an approver in PMLA Special Case Nos.3 and 4 of 2018 (collectively referred to as the 'PMLA Cases') filed before the Special Judge, Mumbai. On 6 September 2021, the applicant travelled to India to cooperate and assist respondent No.1 with the ongoing investigation in CR No.RCBSM2018E001. The next day, the applicant appeared before the competent Court and cancelled the non-bailable warrants issued against him, with a directive to inform respondent No.2 before leaving India. The applicant duly informed respondent No.2 about his departure on 9 September 2021. However, upon visiting respondent No.2's office, the applicant discovered that respondent No.1 had issued a Look Out Circular on 19 July 2021, preventing him from leaving India. The challenge to this circular is pending before the competent Court. The applicant cooperated with the investigation and made several requests to travel abroad, which were denied, leading him to approach the Special Court in Mumbai. Eventually, on 16 June 2022, the applicant was permitted to travel to Hong Kong for three months on certain conditions. Aggrieved, respondent No.1 challenged the order before this Court in Criminal Application No.638 of 2022. On 20 March 2023, this Court permitted the applicant to travel to Hong Kong for three months by imposing certain conditions. One of these conditions required the applicant to furnish a cash surety of Rs.15 crores and a solvent surety of Rs.30 crores before eight days of the intended travel. Due to financial constraints, the applicant applied for modification/ relaxation of this condition in Interim Application No.2769 of 2023. By an order dated 1 November 2023, on conditions stated therein, this Court reduced the cash surety from Rs.15 crores to Rs.10 crores and permitted the applicant to travel. After complying with the conditions, the applicant travelled to Hong Kong from 20 February 2024 to 16 May 2024. Subsequently, the applicant was again required to travel to Hong Kong from 19 June 2024 to 12 July 2024 and received permission from the Special Court to do so from 27 June 2024 to 27 July 2024, with imposed conditions. After complying with the conditions, the applicant travelled to Hong Kong on 28 June 2024 and returned to India on 12 June 2024. The applicant now seeks necessary permission from this Court to travel abroad once again.

3. I have heard Mr Rohan Shah, the learned Senior Counsel appearing on behalf of the applicant, Mr Kuldeep Patil, the learned Counsel representing respondent No.1/ CBI, Ms Amisha Salvi, the learned Counsel appearing for respondent No.2/the ED, and Mr MG Patil, the learned Additional Public Prosecution representing respondent No.4/ State.

4. Mr Rohan Shah, the learned Senior Counsel appearing on behalf of the applicant, submits that the applicant has travelled abroad after complying with every condition imposed by the

Courts. The applicant is not a flight risk as he has returned to India after every trip. The applicant has cooperated with the investigation at all times, and after his return, he has always been available for further investigation but has never been summoned by respondent No.1 until 4 September 2024, where the applicant was requested to provide the bank account number. The learned Senior Counsel contends that the applicant's absence at his place of business has resulted in heavy losses, and to mitigate the situation, he is now required to travel abroad. Mr Shah, on instructions, submits that the applicant undertakes to return to India during the travel period to assist the investigating agency with the investigation and is willing to comply with any conditions imposed by the Court. Further, the applicant restricts his request to travel to Hong Kong and Shanghai only for a limited period of three months starting from 7 September 2024 and ending on 7 December 2024.

5. Mr Kuldeep Patil, the learned Counsel representing respondent No.1/ CBI, opposes the applicant's request for travel on the grounds that he has failed to cooperate with the investigation by not supplying the relevant bank account number where 8.9 million USD were transferred. Ms Amisha Salvi, the learned Counsel appearing for respondent No.2/the ED, submits that respondent No.2 has no objection to allowing the applicant to travel abroad. Mr MG Patil, the learned Additional Public

Prosecution representing respondent No.4/ State, also extends the State's consent to grant the applicant permission to travel abroad subject to the imposition of appropriate conditions.

6. This Court has perused the material placed on record and given anxious consideration to the rival contention.

7. It is undisputed that the applicant arrived in India in September 2021 and stayed here for three years before returning to Hong Kong with prior approvals. The applicant complied with the conditions imposed by the Courts at all material times and travelled abroad. After each trip, he returned to India and notified the relevant authorities. The applicant always made himself available for investigation; however, the investigating agency never summoned him for further investigation after June 2024 until 4 September 2024 requesting him to provide necessary bank account number. The objection raised by respondent No.1 cannot be sustained to curtail the applicant's right to travel as this Court has repeatedly directed respondent No.1 to provide the applicant with the relevant bank account numbers to enable him to supply the necessary bank statements. To date, no such details have been communicated by respondent No.1 to the applicant. Earlier also, on 27 June 2024, the Special Court permitted the applicant to travel overseas on conditions, which the applicant complied with. Considering the applicant's undertaking to this

Court and the peculiar facts of this case, this Court is inclined to permit the applicant to travel on the following conditions:

i. The applicant is permitted to travel to Hong Kong and Shanghai from 7 September 2024 to 7 December 2024. The Look Out Circular bearing No.DP077-2020/ RC.1/ E/ 2018/ 2124 dated 19 July 2021 or any other such circulars issued by the respondents against the applicant shall be suspended for the aforesaid period only.

ii. The applicant shall deposit a cash security of Rs.10 crores and a solvent surety of Rs.30 crores with the trial Court. If the applicant has already deposited these sums and the same are not returned to the applicant, they shall be adjusted accordingly. The Registry shall deposit this amount in fixed deposit.

iii. The applicant shall not take any steps to release the attachment of Rs.44 crores as directed by this Court vide order dated 1 November 2023.

iv. The applicant shall furnish his travel itinerary, details of intended stay, and contact information to respondents No.1 and 2.

v. The applicant shall furnish an undertaking to the Registry of this Court that he will return to India during this period and shall attend the investigating agency as and when summoned.

8. In light of the above, the Interim Application No.3607 of 2024 stands disposed of accordingly.

9. The parties shall act on the authenticated copy of this order.

[R.N. Laddha, J.]