

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.424 OF 2024

Vishal Balwan Chaudhary

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Shubham Kadam a/w. Mr. Vishal Kolekar, Mr. Randhir Kale, Ms. Kiran Jadhav and Mr. Harshavardhan Patil, Advocates for Applicant.
- Mr. Sukanta A. Karmakar, APP for Respondent – State of Maharashtra.
- Mr. Sachin Patil, API, ATS, Juhu Unit, Mumbai.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2025

P.C.:

1. Heard Mr. Kadam, learned Advocate for Applicant and Mr. Karmakar, learned APP for Respondent – State of Maharashtra.

2. Applicant before me has filed the present Application seeking extension of time to complete his study course which he is undertaking in Australia upto 30.04.2025.

3. Mr. Kadam has drawn my attention to the twin orders dated 01.04.2023 and 10.10.2023. By order dated 01.04.2023, Applicant was granted bail with a condition that he shall not leave India without permission of Trial Court. Applicant is admittedly a student. He has moved the Court by Criminal Application No.184 of 2023 and on 10.10.2023, this Court noted that since the charge-sheet has been

filed, investigation is complete and Applicant being a student and desires to undertake studies rather post graduation study in Masters of Business Administration System in Australia and since he is holding (subclass 485) Visa of Australia upto 06.02.2025 and also after recording substantial security in paragraph No.7 of the order dated 10.10.2023, this Court allowed the Applicant and permitted the Applicant to travel to Australia from 07.09.2023 to 07.09.2024.

4. Today, Application is made afresh for extension of time. I am informed that Application was made on 17.09.2024 in this Court but due to some reason, the Application was not heard by Court. It is seen that Application was listed on atleast 5 occasions before the Court but it did not reach. The Applicant was constrained to move the Vacation Court on 26.12.2024 for that reason, but Vacation Judge observed that considering the aforementioned twin orders passed by the regular Court, it would be appropriate for regular Court to decide the Application. Though in the first instance a question would arise in the mind of the Court as to why permission to undertake the aforementioned educational course in Australia was only sought upto 07.09.2024 only when the academic term was to get over in April – 2025. I would like to give benefit of doubt to Applicant in that regard. The present Application states that he has undertaken the course and term would end on 30.04.2025. When the matter was heard by me on 08.01.2005, I orally directed the Applicant to file Affidavit-cum-

undertaking to the extent that after completion of aforementioned course, he would have to show his *bonafides* and return back to India. Applicant informed the Court that he has undertaken another advance Diploma of Civil Construction Design from Lead College, Perth, Australia. Hence, details of the said course were directed to be placed on record. Undertaking of Applicant which is filed in the Court today is affirmed before the Consulate General of India, Perth and it states that he has undertaken a fresh course from 08.09.2024 to 30.04.2025 to pursue further education in Advance Diploma of Civil Construction Design from Lead College, Perth, Australia.

5. Before undertaking this course, it was duty of the Applicant to have taken permission of this Court which Applicant failed to do, since his Visa was to expire on 06.02.2025. On this ground, I can even reject the Application of the Applicant. The Applicant has breached the order dated 01.04.2023 of this Court in the first instance which clearly directed that he shall report before Court. By undertaking a fresh Diploma and further studies course and that too beyond 08.09.2024, the Applicant has taken the orders passed by this Court for granted. Only because Applicant is a student, this Court is lenient with him but orders of the High Court will have to be scrupulously followed lest the persons who breach the orders will have to face the consequences.

6. Today, Applicant is in Australia. He has stated that he received an offer and accepted for enrollment via email from Lead College for the aforementioned course which he has undertaken which commenced on 08.09.2024 and which will end on 30.04.2025. He has stated in his Affidavit that the course is expected to be completed on 20.04.2025. He has also undertaken that on completion of above course, he will return and mark his presence before the Trial Court. He has furnished all details with respect to his residential stay in Australia, as also, his contact numbers in the Affidavit.

7. From the above, it is seen that Applicant has admittedly breached the order of the Court and without permission of this Court he on his own volition applied for a course taking it for granted that this Court will give him *post-facto* extension of time. This conduct of Applicant is viewed very seriously by the Court. Only because the Applicant is a student and since his course has already commenced, this Court is showing leniency towards Applicant. However for such conduct of Applicant, he is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) with Kirtikar Law Library, High Court Mumbai for such dereliction and not approaching this Court before seeking enrollment of any further studies or the advance Diploma in Civil Construction Design from Lead College, Perth, Australia as noted above. The costs shall be deposited by Applicant within a period of one week from today positively and matter shall be placed for

compliance before this Court after one week. If costs are not deposited, this order granting extension to the Applicant shall stand cancelled automatically without recourse to the Court.

8. In view of the above, it is clarified that Applicant shall not take any decision on his own to extend his stay in Australia which he has done once as noted above. He shall positively return to India by 30.04.2025 and mark his presence in the first week of May – 2025 before the Trial Court. He shall give his details of return to India to the Investigating Officer in advance.

9. A copy of this order shall be sent to the Australian Embassy and its Foreign office, as also, Consulate General of India, Perth where Applicant is undertaking his present course for information to ensure that Applicant does not overstay in Australia beyond the dates which are stated hereinabove.

10. With the above directions, Application stands allowed in terms of prayer clause (a) which reads thus:-

“a) That this Hon'ble Court be pleased to temporary relax the condition no.5 passed by the Hon'ble Session Court, Mumbai in Criminal Bail Application 731 of 2023 vide order dated 01/04/2023 and be pleased to grant further extension of the period to stay abroad for the period commencing from 08/09/2024 to 30/04/2025 to the Applicant Vishal Balwan Chaudhary in pursuant to the order dated 10/10/2023 passed by this Hon'ble Court in Criminal Application no. 184 of 2023 to pursue his education course in Advance Diploma of Civil Construction Design from Lead College, Perth, Australia.”

11. With the above directions, Application is allowed and disposed.

12. Application be listed on **17th January, 2025**. To be listed under the caption '**For Compliance**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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