

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.165 OF 2025

Shiyad Sheivram Nair .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Vijay Jha, Advocate i/by Law Juris for Applicant.
 - Mr. Sukanta A. Karmakar, APP for Respondent.
 - Mr. Ashley Cusher, Advocate for First Informant.
 - PSI – Prakash Anandrao Jadhav, Mira Road Police Station.
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CORAM : MILIND N. JADHAV, J.
DATE : APRIL 16, 2025

P.C.:

1. Heard Mr. Jha, learned Advocate for Applicant; Mr. Karmakar, learned APP for Respondent and Mr. Cusher, learned Advocate for First Informant.

2. Application is filed by Applicant seeking indulgence of the Court. While granting bail to the Applicant vide order dated 12.02.2025, learned Trial Court has imposed certain conditions. Condition No.(3) requires Applicant to register presence before the Investigating Officer until filing of the charge-sheet. Since charge-sheet is filed Mr. Jha would submit that said condition has become infructuous.

3. Next condition is condition No.(5) in the bail order. According to Mr. Jha, the said condition requires Applicant to

approach the Trial Court for permission as and when Applicant desires to travel abroad. He would submit that considering the background of Applicant, the said condition is *prima facie* onerous for Applicant to follow. He would submit that Applicant is required to remain present before the Authorities in Dubai where he has business interests for renewal of his business licence. Hence according to him if he has to travel abroad then seeking permission of Trial Court every now and then would become onerous. In addition he would submit that he infact approached the Trial Court for such deletion but learned Trial Court dismissed the said Application and hence he has come before this Court with the twin prayers.

4. Copy of Application is served on prosecution. Mr. Cusher, learned Advocate appears for Intervenor on behalf of First Informant – Complainant. He would submit that he be heard if Court is inclined to relax the said condition as according to him the Applicant would be a flight risk and for that reason he would vehemently oppose present Application.

5. There is one submission made by Mr. Karmakar, learned APP and Mr. Cusher in tandem which requires to be noted. Both of them inform the Court that when Application for relaxation of condition No. (5) was being heard before Sessions Court the said Application came to be rejected because an enquiry was in progress at that time by the

prosecution against Applicant for being found in possession of two passports with two different birth dates therein and at two different places of birth. Mr. Karmakar, learned APP would inform the Court that investigation in that regard is under progress inclined to consider the present Application.

6. *Prima facie* after hearing Mr. Karmakar, learned APP and Mr. Cusher, I am of the opinion that there is nothing wrong in imposing the said condition No.(5) by the Court. The said condition No.(5) is a standard condition which is imposed by Court while granting bail especially in the case of Accused persons who are considered to be a flight risk.

7. In that view of the matter and more importantly Applicant himself informing the Court that he has business interests in Dubai, then it is all the more reason that the said condition needs to be maintained in the bail order. Mr. Jha informs the Court that Applicant is having a daughter who is presently residing with him in Mumbai but Applicant intends to admit her to a school in Dubai for which she is required to undertake some examination and Applicant will have to travel alongwith her to Dubai.

8. Prosecution shall take instructions on details of travel as required by Applicant. Learned APP is directed to file Affidavit-in-Reply within a period of two weeks from today to enable this Court to

consider the present Bail Application.

9. Mr. Cusher, learned Advocate for First Informant is permitted to intervene and file his Intervention Application if so desired.

10. Stand over to **23rd April, 2025.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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