

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

CRIMINAL WRIT PETITION NO.3654 OF 2025

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Prasanth Sivanandan

Age : 54 Years, Occupation : Business,
Residing at : Punchiri Kottiyam PO,
Kollam, Kerala – 691571.

...Petitioner

Versus

1. **The State of Maharashtra**
(Through Byculla Police Station)
Hansraj Lane, Byculla (E),
Mumbai – 400027.

2. **Ajay Gulabhai Kundalla**
Age : 50 Years, Occupation : Business,
Residing at : 601, Dosti Flamingo,
T. J. Road, Sewri (West), Mumbai.

...Respondents

Mr.Ditendra Mishra:-	Advocate for Petitioner.
Ms.Gauri S. Rao:-	APP for Respondent No.1 -State.
Mr.Sukhadeo L. Sanap – PSI:-	Byculla Police Station.

CORAM : S. M. MODAK, J.

DATE : 6th AUGUST 2025

P. C. :-

1. Heard learned Advocate Shri.Mishra for the Petitioner-Accused
and learned APP.

2. There is an offence bearing C.R. No.211 of 2024 registered with

Byculla Police Station. It is for the offences punishable under Sections 406, 420 read with 34 of the Indian Penal Code, 1860 (“IPC”). The representatives of M/s.Mar Cielo Maritime Private Limited are all the Accused. The present Petitioner is the Managing Director of that Company. It is the prosecution case. It is disputed by the Petitioner. Whereas, he claims that he is the Managing Director of the Company namely Protech PPS General Trading and Contracting Company in Kuwait.

3. The sum and substance of the allegations in the FIR is:-

- (a) The First-Informant Ajay Kundaliya is running a business of transporting the goods by sea through a company by name Shree Krishna Stevedoers Private Limited Company.
- (b) They were in need of new ships for the purpose of transport. They had appointed M/s.Mar Cielo Maritime Private Limited for supplying of ship.
- (c) The Complainant paid an amount of Rs.1,90,00,000/- (Rupees One Crore Ninety Lakh) out of the total consideration of Rs.3,07,63,320.00 (Rupees Three Crore Seven Lakh Sixty Three Thousand Three Hundred Twenty).
- (d) The FIR is lodged because the representative of that Company including the Accused has not fulfilled the promises and cheated the Complainant inspite of parting away the money and not delivered the ship.

4. As the Accused was not available for the investigation, Look Out Circular (“LOC”) was issued. When he landed at AFRRO, BOI, TVM Airport, he was intercepted on the basis of LOC. Its copy is tendered. It is dated 14th February 2025. Learned APP tried to explain, at that time he was allowed to visit his ailing parents. In the meantime, the Petitioner was successful in securing the anticipatory bail from the Court of Sessions – Greater Mumbai on 17th March 2025. The order was passed after hearing both the sides. There were two conditions of the said order. They are as follows:-

(i) **Condition No.(d):-**

The Applicant to deposit the passport with the Investigating Officer.

(ii) **Condition No.(e):-**

The Applicant was restrained from leaving the India without permission of the Court.

5. Vide Misc.Application No.251 of 2025, the Petitioner moved the Court of Additional Sessions Judge seeking a direction to return the passport. It was rejected as per the order dated 9th May 2025. Primarily it was rejected on two grounds:-

- (a) Yet the investigation is going on and
- (b) The role played by the Applicant.

6. Being aggrieved, this Petitioner has filed this Writ Petition. During arguments, learned Advocate for the Petitioner has taken a ground about the expiry of VISA. Along with the *praecipe*, the circular issued by the Government of Kuwait in respect of validity of VISA for foreigners is placed on record. Point “***domestic workers***” mentions, “*if such foreigners stays outside Kuwait for a period exceeding 6 months without approval of the Ministry of Interior, their residency expires*”. The submission is this VISA is about to expire on 11th August 2025. That is how there is a pressing need for the Petitioner to travel to Kuwait and after staying there for some time, he is ready to come back in India. Admittedly the passport is valid upto the month of October-2025.

7. Now the issue is “*whether the right of a person to travel abroad is to be recognized*” or “*whether the right of investigation to secure the presence at the time of trial is to be given priority.*” I am inclined to give priority to the right of the Investigating Agency to secure his presence. I am not impressed by the arguments of the Petitioner that his VISA will be cancelled if he will stay outside Kuwait for a period exceeding 6 months. Even though that may be a rule of Kuwait Government but the issue is he is arrested on the basis of the FIR

which was registered in the year 2024. Whether there is a sufficient material to file charge-sheet or not cannot be decided at this stage. Even though he is granted anticipatory bail but still fact remains as there is FIR registered against him. Ultimately, the Court has to give importance to the availability of the Accused at appropriate stage. If the Court will allow this Petition and if the passport is returned and if the Petitioner will go out of Kuwait then it will be difficult in securing his presence if he will not return back. The fact that he has breached the criminal law, disentitles him to claim the protection of the expiry of VISA at Kuwait Government. If he is implicated in the FIR and if his right to travel abroad is restricted, **it comes within the meaning of “reasonable restrictions”**. At this stage, his prayer cannot be considered.

8. Hence, **the Petition is dismissed**.

[S. M. MODAK, J.]