

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6329 OF 2025

Kyle Cummings

...Petitioner

Versus

Union Of India And Anr

...Respondents

Ms. Lakshmi Raman, for the Petitioner.

Mr. Siddharth Chandrashekhar, for Respondent No.1-UOI.

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CORAM: N. J. JAMADAR, J.

DATED: 23rd DECEMBER, 2025

Order:-

1. Heard the learned Counsel for the parties.
2. By this petition under Article 227 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, ("BNSS"), the petitioner takes exception to an order dated 18th November, 2025 passed by the learned Judge, Special Court (NDPS) in Special Case No.1685 of 2024, whereby the prayer of the petitioner to return the Passport to travel to Thailand in connection with business engagements for the period of 15 days during the month of December, 2025, came to be rejected.
3. The petitioner claims to be a prominent Arm Wrestler, and to have represented the country in various Arm Wrestling Championships.

4. The petitioner is arraigned in Special Case No.1685 of 2024 arising out of F.No.SG/INV-14/2024-25/ SIIB/APSC for the offences punishable under Sections 8(c), 22(c), 23(c), 27, 27A, 28, 29 and 35 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS"). The petitioner was released on bail by this Court by an order dated 4th December, 2024 in BA/4279/2024 subject to certain conditions; including a condition that the applicant shall surrender his original Passport. Accordingly, the petitioner claimed to have deposited his Passport with the Special Court on 11th December, 2024.

5. Asserting that the petitioner was required to travel to Thailand, in connection with the business dealings to act as a Brand Ambassador of SMT ILOGIC JEWELLERY L.L.C. S.O.C., a Company which specializes in designing fine jewellery, the petitioner filed an application seeking the return of the Passport with permission to travel abroad, for a period of 15 days.

6. By the impugned order, the learned Special Judge was persuaded to reject the application finding discrepancy in the claim of the petitioner as regards the country to which he intended to visit i.e. Dubai (UAE) or Thailand. Moreover, having regard to the nature of the accusation against the petitioner, the learned Special Judge was of the view that the return of the

Passport, with permission to travel abroad, was fraught with risk of fleeing away from justice.

7. Being aggrieved, the petitioner has invoked the writ jurisdiction.

8. An additional affidavit came to be filed on behalf of the petitioner, wherein the petitioner has affirmed that though the period for which he was initially required to travel has elapsed, yet, the said Company has invited the petitioner for a period of 15 days in the month of January, 2026. Copy of the e-mail communication is annexed at Exhibit-A.

9. An affidavit-in-reply is filed on behalf of the respondent to oppose the prayers to return the Passport and permit the petitioner to travel abroad.

10. Ms. Lakshmi Raman, the learned Counsel for the petitioner, would submit that the learned Judge, Special Court, took a hyper-technical view of the matter. Indisputably, the petitioner is a prominent Arm Wrestler and, therefore, the said company SMT ILOGIC JEWELLERY L.L.C. S.O.C., intends to avail the services of the petitioner as the Brand Ambassador of the said company. On the merits of the matter, Ms. Lakshmi Raman would submit that, the petitioner was not found in

possession of any contraband substance and, therefore, the petitioner cannot be deprived of his right to travel abroad especially for business purpose. It was urged that the petitioner has firm roots in the society.

11. In contrast to this, Mr. Siddharth Chandrashekhar, the learned Special PP for respondent No.1, would submit that having regard to the gravity of the accusation, the learned Special Judge was justified in declining to return the Passport and permit the petitioner to travel abroad.

12. The reasons which primarily weighed with the learned Judge, Special Court, were the gravity of the alleged offences and the fact that this Court in BA/4279/2024 had directed the petitioner to surrender the Passport.

13. In this proceeding and, at this juncture, this Court is not expected to delve into the merits of the allegations against the petitioner. Suffice to note that, the role attributed to the petitioner is that the petitioner used to call for the contraband substances in the name and address of the co-accused Shravan Joshi. It is not the case that any contraband article was found either on the person of the petitioner or pursuant to any discovery made by the petitioner.

14. The Court finds that the material on record especially the communication from SMT ILOGIC JEWELLERY L.L.C. S.O.C., dated 15th December, 2025 indicates that the petitioner was requested to travel to Thailand during the month of January 2026 to discuss the business commitment. It is true, some discrepancy in the claim of the petitioner and the letter addressed by the said Company can be noticed. However, that cannot be a ground to deny the right to travel abroad. Instead, the Special Court ought to have delved into the substance of the matter.

15. Right to travel abroad is considered to be a facet of right to life and personal liberty. [*Maneka Gandhi vs Union Of India*¹]. It cannot be subjected to unreasonable and arbitrary restrictions, even when a person is facing a prosecution. The material on record indicates that the petitioner has roots in the society to bring him back, if permitted to travel abroad. The antecedents of the petitioner do not appear to be such as to put the Court on guard.

16. The learned Judge, Special Court, could have imposed appropriate and stringent conditions subject to which the

1 (1978) 1 SCC 248.

Passport could be returned and the petitioner permitted to travel abroad.

17. In the aforesaid view of the matter, this Court is inclined to allow the petition.

18. Hence, the following order:

: O R D E R :

- (i) The petition stands partly allowed.
- (ii) The impugned order dated 18th November, 2025 passed by the learned Judge, Special Court, stands quashed and set aside.
- (iii) The Special Court is requested to hand over the custody of the Passport to the petitioner on the condition of redepositing the Passport with the Special Court, after returning to India.
- (iv) The petitioner is permitted to travel abroad, during the period 16th January, 2026 to 30th January, 2026, subject to depositing an amount of Rs.2,00,000/-, by way of security deposit, which would be liable to be forfeited in the event of failure of the petitioner to return to India.

- (v) The petitioner shall also furnish, on an affidavit, the details of the itinerary, particularly the date on which the petitioner would return back to India, and the address(es) at which the petitioner would be residing at Thailand and contact number(s) and address thereat. The petitioner shall also furnish a self attested copy of the passport along with the affidavit, to be filed before the Special Court.
- (vi) The petitioner will be entitled to refund of the security deposit after he returns to India and surrenders his Passport before the Special Court.

[N. J. JAMADAR, J.]