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Uday S. Jagtap

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

CRIMINAL APPLICATION NO. 76 OF 2025

Monica Harnarain Sambharya .. Applicant

Vs.

Harshul Harish Parikh & Anr. .. Respondents

....

Mr. Sadanand Shetty a/w Lakshita Patyal, Mr. Anshuman Sambre
i/b Nidhi Chheda for the applicant

Ms. Anamika Malhotra, APP for the respondent – State

Mr. Onkar Mulekar for the respondent no.1

Mr. Dattatray Nale, ACP, Worli Police Station present

....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 24th JANUARY, 2025.

P.C.

1. Heard.

2. At the outset, learned Counsel for the applicant invites my
attention to the impugned order dated 16th January, 2025 passed
by the Additional Sessions Judge, City Civil Court, Greater
Mumbai.

3. Having perused the impugned judgment and order, certain shocking facts are revealed, in the sense, the prosecution in the Court below has given absolute no objection for the respondent to travel abroad, despite various attending circumstances and the facts from which it can be *prima facie* infer that, in case, the respondent, who is admittedly a US citizen is allowed to travel abroad, he would abscond permanently and may not return back.

4. The Court below in para 6 of the impugned order has specifically observed and as stated by the petitioner – wife before the said Court that the respondent had already committed breach of the conditions of anticipatory bail. Under the garb of attendance, instead of him, his advocate appears in the trial Court and time and again seeks exemption from appearance and as such had already committed the breach of the conditions imposed while granting anticipatory bail.

5. It also appears that progress of the trial is being hampered due to the absence of the respondent. The Court below has also observed that upon collectively considering the entire materials

brought before him against the respondent, it would certainly crystalize his intention to abscond from India and not to cooperate in the trial. Despite quoting the ratio laid down in the case of *Daljit Singh Pandher Vs. State of Punjab & Ors. Decided on 11.10.2021 by CRM-M-42836-2021*, it is surprising as to how the Additional Sessions Judge, by the impugned order, permitted the respondent to travel abroad? It is even more surprising that the itinerary given by the applicant is quite vague. He did not tender any tickets showing his travel from India to UAE from 16.01.2025 to 24.01.2025, from India to Barcelona and Vienna from 02.02.2025 to 15.02.2025 and from India to UAE from 15.03.2025 to 24.03.2025.

6. Learned Counsel has also invited my attention to an order passed by this Court in Civil Writ Petition No.1823 of 2024 dated 28.02.2024 (Coram: Rajesh S. Patil, J). It was a civil writ petition filed by the respondent, wherein the following vital observations are made by this Court :-

“6. By a judgment and order dated 8 May 2023, the Competent Authority passed an order thereby directing the Petitioner to hand over vacant and peaceful

possession of the suit premises, to Respondent Nos. 3 and 4 within 30 days from the date of the order, and further directed the Petitioner to pay damages to Respondent Nos.3 and 4 at the rate of Rs.5,00,000/- per month (Rs.2,50,000/- x 2 i.e. Rs.5,00,000/-) from 1 September 2022 till handing over vacant and peaceful possession of the suit premises.”

7. Mr. Mulekar, learned Counsel appearing for the respondent no.1 waives service and seeks time to file his response.

8. Learned APP waives service on behalf of respondent no.2 - State and seeks time to take instructions.

9. For the reasons stated hereinabove, the effect and operation of the impugned order is stayed till the response is filed by the respondent no.1.

10. List on 31st January, 2025.

(PRITHVIRAJ K. CHAVAN, J.)