

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

WRIT PETITION NO. 3111 OF 2025

Daulat Samirmal Mehta
Age: 68 years, Occ: Business,
Residing at Flat No. 301, Aangan,
N.S. Road 2, Vile Parle (W),
Mumbai – 400 056.

...Petitioner

Versus

1. Assistant Director,
Directorate General of Goods and
Services Tax Intelligence,
Zonal Unit Mumbai, 1st & 3rd Floor,
N.T.C. House, 15 N.M. Road,
Ballard Estate, Mumbai – 400 001.

2. State of Maharashtra

...Respondents

Mr. Brijesh Pathak & Ms. Anjali Joshi, for the Petitioner.
Mr. Jitendra B Mishra a/w Mr. Rupesh Dubey i/by Ms.
Sangeeta Yadav, for the Respondent No. 1.

CORAM : N. J. JAMADAR, J.
RESERVED ON : 02nd FEBRUARY 2026
PRONOUNCED ON : 16th FEBRUARY 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. This petition under Articles 226 and 227 of the Constitution of India and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (“the BNSS, 2023”), assails the legality,

propriety and correctness of an order dated 02nd May, 2025 passed by the learned Additional Chief Judicial Magistrate, Explanade, Mumbai, whereby an application preferred by the petitioner for permission to travel abroad for a period of 60 days for business purpose, came to be rejected.

3. The Respondent No. 1 initiated an investigation into an incident of alleged fraudulent availment and utilization of Input Tax Credit ('ITC') by M/s. Alfaraz' Infra Projects Private Limited, on the basis of bogus invoices without actual receipt of goods or services. Eventually, upon finding the complicity of the petitioner, who is the Managing Director of the Twinstar Industries Limited and Originet Technologies Limited Company, the petitioner came to be arrested for the alleged offences punishable under Section 132 (1)(b),(c) of the Central Goods and Services Tax Act, 2017.

4. It was *inter alia* alleged that, the fraud was to the tune of Rs. 399.92 crores. Prosecution was recommended against the corporate entities M/s. Twinstar Industries Limited, M/s. Boostmetric Solutions Limited, M/s. Originet Technologies Limited, and M/s. Snowcem Paints Private Limited, for fraudulent availment and passing off ineligible ITC by raising

bogus invoices, without actual supply of goods and services, resulting in loss to the public exchequer.

5. The petitioner was released on bail by a Division Bench of this Court by an order dated 15th February, 2021 in Writ Petition No. 471/2021. The petitioner was *inter alia* directed to deposit his passport before the Court.

6. The petitioner filed an application before the learned Magistrate seeking return of the passport with permission to travel abroad. By an order dated 29th July, 2024, the learned Magistrate rejected the application.

7. The petitioner invoked the writ jurisdiction of this Court in Criminal Writ Petition (Stamp) No. 18501/2024. By an order dated 06th January, 2025, a Division Bench of this Court was persuaded to quash and set aside the said order and direct the return of the petitioner's passport. The Division Bench had then noted that, though a period of three and half years had elapsed since the release of the petitioner on bail, complaint had not been filed by the authorities. The Division Bench further clarified that, in the event the petitioner intended to travel overseas, he shall seek permission of the Trial Court before his departure. The petitioner was directed to file an undertaking

before the Trial Court that he would not travel overseas without the permission of the trial Court.

8. The petitioner preferred an application before the trial Court seeking permission to travel to U.K., Dubai and U.S.A. for a period of 60 days i.e. 30 days in the month of May and 30 days in the month of August, for business purpose. The application was resisted by the Respondent No. 1.

9. By the impugned order, the learned Magistrate was persuaded to reject the application. The learned Magistrate noted that, in the adjudication proceeding penalty of Rs. 1,00,000/- (Rupees One Lakh) was imposed on the petitioner and penalties of Rs. 2,12,86,980/- (Rupees Two Crore Twelve Lakhs Eighty Six Thousand Nine Hundred and Eighty) and Rs. 2,13,00,000/- (Rupees Two Crores Thirteen Lakhs), respectively, were imposed, on the M/s. Boostmetric Solutions Limited and M/s. Twinstar Industries Limited, of which the petitioner was the Managing Director. The petitioner was also found guilty of misconduct under Item (2) of Part IV of the Schedule r/w Section 22 of the Chartered Accountants Act, 1949 Act. Recording that the alleged fraudulent activities entailed huge loss of Rs. 399.92 Crores to the State exchequer, the offence

being grave in nature and the possibility of the abscondence, the learned Magistrate rejected the application.

10. Being aggrieved, the petitioner has again invoked the writ jurisdiction of this Court.

11. Since the period for which the petitioner intended to travel abroad has expired, the petitioner filed an additional affidavit indicating the future itinerary for which he intended to travel abroad. It was *inter alia* asserted that, the petitioner is the Managing Director of the M/s. Originet Technologies Limited, M/s. Redtech Technologies Private Limited and M/s. Twinstar Industries Limited and he was required to travel to Dubai, London, Paris, Italy and Berlin for the purpose of the expansion of business and explore new opportunities and revive the business activities. The petitioner also asserted that, he intended to travel to Bali for a family vacation during the period 02nd March, 2026 to 12th March, 2026.

12. The Respondent No. 1 has opposed the prayers in the petition by filing an affidavit-in-reply and an additional affidavit. It was *inter alia* contended that, the petitioner is facing prosecution in connection with serious economic offences having substantial implications on revenue. The adjudication

has culminated in confirmation of huge demand and penalty running into Rs. 399.92 Crores. In the intervening period, on 14th May, 2025, sanction for prosecution has also been accorded and, accordingly, a prosecution complaint against the petitioner has already been filed before the Competent Court. Since a criminal prosecution is now pending, and the presence of the petitioner is required for the conduct of the trial in the said case involving large revenue implications, the petitioner cannot be permitted to travel abroad. An apprehension is also expressed that, the petitioner may evade the process of law by not returning to India.

13. I have heard Mr. Brijesh Pathak, the learned Counsel for the petitioner, and Mr. Jitendra Mishra, the learned Special Counsel for the Respondent No. 1.

14. Mr. Pathak, the learned Counsel for the petitioner, submitted that, the resistance to the prayer of the petitioner for permission to travel abroad is completely unsustainable. The alleged penalties have been confirmed against the companies and not the petitioner. Only the penalty of Rs. 1,00,000/- (Rupees One Lakh) is imposed on the petitioner. It is not the case that, the petitioner has no roots in the society. The

fundamental right of the petitioner to travel abroad cannot be trampled upon by contending that, the orders of adjudication running into the Crores of Rupees are yet to be complied with *qua* the corporate entities, of which the petitioner is a Director. Therefore, the learned Magistrate committed an error in law in rejecting the application on the premise that, the alleged fraud entailed loss of Rs. 399.92 Crores to the revenue. It was further submitted that, the apprehension on the part of the prosecution that, the petitioner may flee away, if permitted to travel abroad, and, which weighed with the learned Magistrate, was wholly unfounded. There was no material to lend credence to such unfounded apprehension.

15. In contrast, Mr. Mishra the learned Special Counsel for the Respondent, would submit that, in the circumstances of the case and especially having regard to the huge financial implications, the learned Magistrate was fully justified in declining to grant permission to travel abroad. Mr. Mishra laid emphasis on the fact that, though the appeal was preferred against the order adjudicating penalty, yet, the petitioner has not made the pre-deposit. Instead, to circumvent the statutory obligation to make a pre-deposit, a writ petition is filed before this Court. In this backdrop, if the petitioner is permitted to

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travel abroad, the interest of the revenue would be seriously prejudiced. It was urged that, having regard to the huge penalty imposed on the companies; of which the petitioner is a Managing Director, the petitioner may make himself scarce once he is permitted to travel abroad.

16. Evidently, the fact that the petitioner has been arraigned for the offences punishable under Section 132(1)(b),(c) of the Central Goods and Services Tax Act, 2017, with the allegations of having availed ITC by issuing bogus invoices without actually supplying the goods or services entailing loss to the public exchequer to the tune of Rs. 399.92 Crores, and the fact that in the adjudication proceeding, penalties have been imposed on the petitioner and the abovenamed companies, weighed with the learned Magistrate in rejecting the application for permission to travel abroad. Whether this material is sufficient to deprive the petitioner of the right to travel abroad ?

17. Before adverting to deal with the legal position which governs the prayer of an accused to travel abroad, in exercise of the fundamental right guaranteed by the Constitution, it is necessary to note that, the material on record does not attribute such conduct to the petitioner which would show that, the

petitioner poses a flight risk. Incontrovertibly, a penalty of Rs. 1,00,000/- (Rupees One Lakh) has been imposed on the petitioner, in his individual capacity. The penalties of Rs. 2,12,86,980/- (Rupees Two Crore Twelve Lakhs Eighty Six Thousand Nine Hundred and Eighty) and Rs. 2,13,00,000/- (Rupees Two Crores Thirteen Lakhs), respectively, have been imposed on the M/s. Boostmetric Solutions Limited, and M/s. Twinstar Industries Limited, the companies of which the petitioner is stated to be the Managing Director. Can the right of the petitioner to travel abroad be subjugated to and made conditional upon the recovery of the penalty imposed upon the companies of which the petitioner is stated to be a Managing Director, is the question that comes to the fore.

18. Indisputably, the Respondent No. 1 can resort to the proceedings under GST Act, 2017 to recover the penalty imposed on the companies. On first principles, the revenue instead of initiating the measures for the recovery of the penalty imposed on those companies, would not be justified in opposing the prayer for permission to travel abroad.

19. Personal liberty is not confined to the constricted sense of freedom from arrest and detention. The expression “personal

liberty” is of wide amplitude and subsumes in its fold right to travel abroad and return to India without hindrance. The personal liberty can be deprived only according to the procedure established by law. In the case of *Satwant Singh Sawhney Vs. D. Ramarathnam, Assistant Passport Officer, New Delhi & Ors.*¹, a Constitution Bench of the Supreme Court enunciated that, the right to travel abroad is a fundamental right. In the absence of any law regulating or depriving a person of such right, denial of the passport or withdrawal of the passport, already issued, would infringe Articles 14 and 21 of the Constitution of India.

20. In the case of *Smt. Maneka Gandhi Vs. Union of India*², the Supreme Court emphasized that, “personal liberty” guaranteed under Article 21 is of the widest amplitude and includes the right to travel abroad. No person can be deprived of his right to travel abroad unless there is a law made by the State, prescribing the procedure for depriving a person of the said right. Moreover, the procedure by which such right is sought to be deprived must also be fair and reasonable and cannot be arbitrary, unfair and unreasonable.

1 AIR 1967 SC 1836

2 AIR 1978 SCC 597

21. In the case of ***Satish Chandra Verma Vs. Union of India & Ors.***³, expanding the scope of the right to travel abroad, the Supreme Court explicated that, the right to travel abroad also extends to private life. The observations of the Supreme Court in the Para No. 5 are instructive and extracted below:-

“5. The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right. (See : Mrs. Maneka Gandhi v. Union of India (1978) 1 SCC 248). In the said judgment, there is a reference to the words of justice Douglas in Kent V. Dulles 357 US 116 (1958) which are as follows:
“Freedom to go abroad has much social value and represents the basic human right of great significance.”

(emphasis supplied)

22. The aforesaid being the nature of the right to travel abroad, when the said right is sought to be curbed by the orders passed by the Court to ensure the availability of the accused for trial and prevent the prospect of the accused fleeing away from justice, the Court needs to be alive to the fact that, the denial of

permission to travel abroad impinges upon the fundamental right of the accused. The restrictions on the accused leaving the country without the permission of the Court, are primarily meant for securing the presence of the accused at the trial and to ensure that the accused does not evade the process of justice. In addition to the nature and gravity of the offence and the stage of the proceeding, the attendant circumstances and conduct of the accused do bear upon the exercise of jurisdiction. The purpose for which an accused seeks permission to travel abroad is a factor which also weighs in.

23. On the aforesaid touchstone, reverting to the facts of the case, it is imperative to note that, it was not the stand of the Respondent No. 1 that since the release of the petitioner on bail (in the year, 2021), the acts and conduct on the part of the petitioner are such as to betray an animus to evade the process of justice. It is not alleged that, the petitioner did not comply with any of the conditions or did not participate in the proceedings, whenever required.

24. Indeed there are allegations to the effect that, there was a fraud in availing ITC which entailed the loss to the tune of Rs. 399.92 Crores to the state exchequer. However, that cannot be

sole basis for rejecting an application seeking permission to travel abroad. The guilt of the accused is yet to be adjudicated. In a situation of the present nature, where the material on record indicates that, the petitioner has roots in the society so as to bring him back to India, the denial of permission to travel abroad, on the basis of an apprehension which *prima facie* does not appear to be borne out by the material on record, cannot be sustained.

25. Resultantly, the petition deserves to be allowed.

26. Hence, the following order:-

:: O R D E R ::

- I) The Writ Petition stands allowed.
- II) The petitioner is permitted to travel abroad;
 - i] for a period of 10 days for business purpose to London, Paris, Italy and Berlin.
 - ii] for a period of 8 days for family vacation to Bali, during the period 18th February, 2026 to 31st March, 2026, subject to following conditions: -

(a) The petitioner shall deposit an amount of Rs.1,00,000/- in the trial Court, by way of security.

(b) The petitioner will be entitled to refund of the security deposit after he returns to India and reports to the trial Court.

(c) The petitioner shall also furnish, on an affidavit, the details of the itinerary, particularly the dates on which the petitioner would leave, and return back to India, and the address/es at which the petitioner would be residing at different places and contact number/s thereat.

(d) The petitioner shall also furnish a self attested copy of the passport alongwith the affidavit, to be filed before the learned Magistrate.

(e) Copy of such affidavit and self-attested copy of the passport be also furnished to the Investigating Officer.

(f) All concerned to act on an authenticated copy of this order.

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Digitally signed by
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Date: 2026.02.16
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[N. J. JAMADAR, J.]