

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.2288 OF 2006**

Noa Haviv Petitioner

vs

State of Maharashtra & ors ... Respondents

Mr. Harish Jagtiani, Advocate for Petitioner
Mr. V.B. Kondedeshmukh, A.P.P. for Respondents
I.O.Ms. present

CORAM : SMT R.S. DALVI, J
(Vacation Judge)

DATE: 30th October, 2006

P.C.

1. The petitioner is German by descent and a naturalised Israeli citizen. She holds two passports issued by Germany and Israel.

2. The petitioner travelled to India on a three week vacation. She arrived in India on 21st September, 2006. Her baggage showed ammunition being 16 bullets and a magazine. She was arrested and kept in custody for 4 days. She has since been released on bail. Her passports have been impounded. She has

travelled to North and West India. She holds a valid Indian visa. She now desires to return to Israel. She has therefore, applied for release of her passports.

3. The charge sheet is not yet filed. The learned A.P.P. States that the investigation is in progress and within a week the charge sheet is likely to be filed.

4. I inquired with the learned I.O. as to what part of the investigation is yet to be carried out. The learned A.P.P., upon taking instructions, states that the ammunition found from her baggage has been sent for forensic analysis and so soon as the report is obtained, the charge sheet will be filed.

5. The petitioner has not disputed that the aforesaid ammunition was in her baggage. It is her case that the ammunition belonged to her brother who held a valid Israeli licence and her brother's bag was carried by her.

6. The investigation has not revealed any criminal activity of the petitioner. The petitioner belongs to an alien foreign country. The petitioner as a tourist is a guest in our country and has to be treated as such until any criminal intent for any criminal activity prima facie is shown.

7. This case being of a foreign lady who is a tourist in our country has to be dealt with differently from other cases in which persons having in their possession any arms or ammunition are sought to be charge sheeted inter alia under section 25 of the Arms Act.

8. The petitioner of course would be required to attend the Court upon her charge sheet being filed and whenever she is required for trial. The petitioner who is present in Court undertakes to appear in Court as and when called upon after the charge sheet is filed. Her undertaking is accepted.

9. The petitioner further undertakes to obtain a written assurance/undertaking of her employer Medcon that she would be given the requisite leave to attend the hearing of the case as and when required. The petitioner has already been released on bail of Rs.15,000/- . The petitioner shall furnish further amount of Rs.15,000/- as additional surety in Court of the learned Metropolitan Magistrate where the petitioner has obtained bail. The petitioner shall be handed over the passports issued by Israel authorities to enable her to travel to and from Israel. The petitioner shall be entitled to be represented by her Advocate at the time of filing of the charge sheet and for such further applications as are required to be made on her behalf in the Court of the learned Metropolitan Magistrate.

10. If the petitioner fails to return to India to stand trial, the respondents shall be entitled to initiate such proceedings including extradition proceedings as available to the respondents .

11. Petition is disposed of accordingly.

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

(Smt Roshan Dalvi, J)