

Vidya amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 215 OF 2014
IN
CRIMINAL APPEAL NO. 448 OF 2007

Begani Talab Suleman	...	Applicant
vs.		
Union of India & Anr.	...	Respondents

Mr. Ayaz Khan a/w. Zehra Charania, Advocate for the applicant.
Ms. Rebecca Gonsalves, Advocate for respondent no. 1.
Mrs. A.A. Mane, APP for the State/respondent no. 2.

CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 30th June, 2014.

P.C.

The applicant/convict has moved this Application seeking permission to travel U.K. for a period of two months and therefore, seeks direction that the passport of the applicant, which is in the Sessions Court, be returned to him.

2. The applicant/accused is a british national who was arrested on 18th February, 2000 for the offences committed under NDPS Act. By the judgment and order dated 5th April, 2007 the applicant is convicted by the learned Special Judge for NDPS cases, Mumbai for the offences punishable under sections 21(c), 28 and 29 of the NDPS Act, 1985 and was sentenced to suffer R.I. for 10 years and to pay fine of Rs.1,00,000/- on each count, i/d. to suffer R.I. for one year on each count. The applicant/accused remain in prison throughout the trial i.e. from 18th February, 2000 to 5th April, 2007. Thereafter he moved an

application for bail and he was granted bail by an order dated 30th July, 2007. Till then he had completed nearly 7 years and 5 months. His Application for expediting the appeal for final hearing was rejected by an order dated 11th January, 2008. Now, he has moved this Application seeking permission to travel to his homeland i.e. U.K. as his daughter Ms. Sabira Kara is getting married on 16th August, 2014 at Boltan in U.K.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused could not remain present for the wedding of his other daughter so also other family members. The applicant's wife had suffered heart attack and she is undergoing the case of severe depression. His elder brother has undergone bypass surgery and at present his condition is not stable. The applicant is also heart patient and suffering from spinal problem. The applicant has been away from his house and country since last 14 years. He further submitted that the applicant also is required to go to Manchester to sort out his medical, social and family affairs. The applicant seeks permission to go to UK, as he wants to attend the wedding of his daughter and then he will come back. The learned counsel submitted that the applicant undertakes that he shall make himself available at the time of hearing of the Appeal.

4. Learned counsel for respondent no. 1 opposed the Application.

She submitted that the applicant/accused is a foreign national and if at all he is permitted to go to his homeland, he is likely to misuse the permission and he would not return India and would not be available at the time of hearing of the Appeal.

5. In order to substantiate the purpose of travel as stated, the applicant has placed number of documents on record. The applicant has produced wedding card of Sabira Kara and Irfan Qadir, email sent by her about booking of one hall in Boltan Excellency, the letter sent to Boltan Excellency are produced. The fact of booking of Royal Hall in Boltan Excellency is confirmed by the prosecution through their sources. A letter dated 10th June, 2014 by Dr. Mohammad Jaberansari, Director of Boltan Excellency received to NCB is placed on record. By this letter, Boltan Excellency has sent confirmation of booking of venue on 16th August, 2014 for the wedding of Sabira Kara and Irfan Qadir. The payment is also made by them. Thus, the applicant has made out the valid ground to give permission to go to his homeland. It is also to be noted that he has undergone a sentence of 7 years and 5 months out of 10 years of his sentence. In view of these facts and circumstances, I am inclined to grant permission to the applicant to travel UK for a period of 90 days on the following terms and conditions:

ORDER

- (i) The applicant is allowed to travel UK for a period of 90 days from the date of departure.

- (ii) The applicant shall inform about his return after 90 days to the concerned NCB as well as concerned Special Court.
 - (iii) The applicant shall deposit Rs.50,000/- by way of security in the Sessions Court and the Sessions Court is directed to invest this amount in the Fixed Deposit for a period of three months. The applicant may apply for the refund of the said amount after surrendering his passport to the Special Court on his return. The said amount may be refunded to the applicant.
 - (iv) The applicant shall give entire travel plan along with his residential address in UK, phone number and email address to the NCB and also to the Sessions Court.
 - (v) After receipt of travel plan and an amount of Rs.50,000/-, the Special Court is directed to handover the passport to the applicant.
 - (vi) The applicant is directed to report to Indian Embassy at Birmingham once in a month.
 - (vii) The British Embassy while issuing fresh passport should take note that the applicant is permitted to travel UK i.e. his homeland for a period of 90 days.
6. The Application stands disposed of accordingly.

(MRS. MRIDULA BHATKAR, J.)