

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.232 OF 2014
IN
CRIMINAL APPLICATION NO.29 OF 2014
IN
CRIMINAL WRIT PETITION NO.1505 OF 2011

Adnan Sami Khan	...	Applicant
versus		
State of Maharashtra & Anr.	..	Respondents

Mr.Amit Ghag for the Applicant
Mrs.Edita Dey for the Respondent No.2
Mrs.A.A.Mane, APP for the State

CORAM : M. S. SONAK, J.
(Vacation Court)

DATE : 30TH MAY 2014

P.C. :-

- 1] Heard Mr.Amit Ghag for Applicant, Mrs.Dey appearing for the Respondent No.2 and the learned APP.Mrs.Mane for the State.
- 2] By this, the applicant seeks leave to retain his passport, which was handed over to him in terms of order made by this Court on 9th May 2014, and further to travel abroad i.e. Australia from 5th June, 2014 till 19th June, 2014 after submission of itinerary to the Oshiwara police station.
- 3] Earlier, the applicant had applied for return of his passport and for permission to travel abroad. Such permission was granted

by this Court vide order dated 9th May, 2014. The Applicant had then proposed to travel to Pakistan to meet his ailing mother and thereafter to London, if required for the purpose of treatment.

4] The Applicant did travel to Pakistan, on the basis of liberty granted by order dated 9th May, 2014. The Applicant has since returned to India and stated that it was not necessary for him to travel to London. In the order dated 9th May, 2014, this court had granted the Applicant liberty to renew his prayer for the purpose of proposed travel in June, 2014. Accordingly, the present application is in pursuance of the liberty as aforesaid.

5] Mrs.Dey appearing for Respondent No.2 and the learned A.P.P.Mrs.Mane have opposed the present application by submitting that the Applicant has till date failed to comply with the conditions imposed upon him by the order dated 27th and 28th January, 2014 by which liberty had been granted to the Applicant to travel abroad. They pointed out that till date the Applicant has failed to furnish sureties of three reputed citizens who own property worth Rs.1.50 Crores cumulatively and furnish undertaking ensuring that the Applicant shall return from abroad for the purpose of facing trial.

6] Learned counsel appearing for the Applicant has made solemn statement that the necessary undertakings have been filed by three reputed citizens who own property worth Rs.1.50 Crores cumulatively. Further the said three reputed persons have already

offered themselves as sureties and the process of acceptance is on before the trial Court at Andheri. Learned counsel pointed out that the Presiding Officer of the trial Court has proceeded on leave w.e.f.19th May, 2014 and is expected to return by 31st May, 2014 and that it is for this reason that the process has not been completed. Learned counsel also pointed out that one of the three reputed citizens is traveling abroad and is expected to return by 10th June, 2014. For all these reasons, the learned counsel submitted that there is substantial compliance and in any case there is every intention to comply with the conditions imposed by this Court by the order dated 27th and 28th January,2014.

7] Having considered the aforesaid submissions and perused the material on record there appears to be no reason to reject the Applicant's request. Although it is true that the Applicant has not exhibited sufficient diligence in the matter of compliance with the conditions imposed upon him by the order dated 27th and 28th January, 2014, nevertheless taking into consideration the earlier order dated 9th May 2014, at the time of passing of which, the position was not substantially different, there is no reason to reject the Applicant's request.

8] The Applicant however shall have to file undertaking before this Court, before he leaves for abroad, that he shall return to India by 19th June, 2014 and further that he will ensure that the conditions

contained in the order dated 27th and 28th January, 2014 will be complied latest by 31st July, 2014. Upon return on 19th June, 2014, the Applicant shall hand in his passport by 22nd June, 2014 to the authorities.

9] Accordingly and subject to the aforesaid, the application is made absolute in terms of prayer clause (a) of this application.

10] Parties to act on the basis of an authenticated copy of this Order.

(M. S. SONAK, J.)

Vishal