

**IN THE COURT OF METROPOLITAN MAGISTRATE
RAILWAY MOBILE COURT, ANDHERI, MUMBAI**

Notice No. 687/N/2021

ORDER BELOW EXH.1

1. This is an application of the applicant / accused no.3 Ashok Mirchandani for permission to travel to Dubai, U.A.E. The accused submitted that he is permanent resident of Dubai. He undertakes to remain present as and when required by investigation agency. He is ready to abide by all the conditions which may be imposed by this court. Hence, permission be granted to him to travel Dubai.

2. I have gone through the record. Initially, on the basis of F.I.R. dated 16/01/2020 lodged by the informant Ajay Dwarkadas Thakkar, C.R.No. 23/2020 came to be registered against Mehak Mirachandani (wife of present applicant) and Harsha Sewani (mother-in-law of present applicant) for the offence punishable under Section 341 read with section 34 of the Indian Penal Code. As per the allegations of F.I.R. both the accused named in the F.I.R. illegally took the possession of the flat, where the informant and his friend were staying on rent, and they restrained the informant's friend from entering into the flat. Thereafter in the petition filed by the informant of the crime the Hon'ble High Court appointed Court Receiver. Thereafter the informant gave report to police station Amboli against present applicant and others with the allegations of robbery by them of the valuable articles and the documents. On the basis of the supplementary statement of the informant offences punishable under Sections 380, 454 and 457 of the Indian Penal Code came to added in the crime. As per the order of ACP investigation of the crime came to

be transferred to police station Oshiwara. The Hon'ble High Court granted anticipatory bail to Mehak Mirchandani and Harsha Sewani. The anticipatory bail application of the present applicant came to be rejected by Hon'ble Sessions Court. Thereafter the applicant approached the Hon'ble Bombay High Court for grant of anticipatory bail. The applicant withdrawn his application for anticipatory bail filed before Hon'ble High Court on 07/07/2021 on the basis of the statement of I.O. before Hon'ble High Court that the investigating agency does not want to arrest the applicant. While granting interim protection to the applicant the applicant was directed by the Hon'ble High Court that he shall not leave the country without the permission of the court. In subsequent order the Hon'ble High Court on the request of the applicant to relax the condition, directed the applicant to file an application for permission to leave the country before the trial court and directed the trial court to consider the application as expeditiously as possible.

3. I.O. filed his say and opposed the application. He submitted that the applicant is one of the owner of the flat. The investigation is in progress. Stolen property is not seized yet. The applicant may abscond. Hence, the application may be rejected. The learned APP also opposed the application by submitting that the investigation is in progress.

4. The informant of the crime also appeared before the court and he filed application for intervention. He also opposed the application. He submitted that I.O. has not done proper investigation. The offence is serious in nature. The investigation will hamper and there will be destruction of evidence, if the applicant is allowed to leave the country. The stolen articles are yet to be seized. Hence, the

application may be rejected.

5. I have considered the submissions of both the parties. Admittedly the investigation is not completed. Considering the allegations of the first informant, recovery of stolen articles is necessary for proper investigation. The recovery of stolen articles is not possible without the cooperation of the applicant and other accused. The application to travel Dubai is not for any specific period. There is full possibility that the applicant may not cooperate with I.O. in investigation after leaving the country. The pandemic situation is still going on. Due to Covid-19 restrictions and protocol, it would be difficult to call the applicant from Dubai for investigation if his presence is required. Therefore, at this stage it would not be proper to grant permission to the applicant to travel Dubai for uncertain period. Hence, the application is rejected.

Sd/-

(Imran R. Marchiya)
Metropolitan Magistrate
Railway Mobile Court,
Andheri, Mumbai.

Date.: 31/07/2021