

Common order below Exh.5 & 7
(Passed on 13.04.2022)

Perused applications and say. Heard learned A.P.P. and learned counsel Shri A.A. Khan appearing for the accused No.2 Rupesh Atmaramji Soni.

2] Accused No.2 Rupesh Atmaram Soni (hereinafter called as “the applicant”) has prayed for grant of No Objection Certificate for issuance of passport in his favour. According to applicant / accused no.2, he is businessman and permanent residence of Nagpur. He wants to travel to Dubai in connection with his business. He wants to teach the new techniques and method for making the gold ornaments by machines from Dubai. He wants to travel abroad for the period from 01.06.2022 to 15.07.2022. He is ready to abide by the conditions imposed by the court.

3] The learned A.P.P. has strongly opposed the applications on the ground that in this case, charge is not framed. It is argued by the A.P.P. that there are chances of absconding of the accused. Hence, she prayed for rejection of applications.

4] Perusal of the record shows that the applicant is accused in above referred case, which is under sections 4 & 5 of the Prevention of Gambling Act and these offences are triable by this Court and the case is pending before this Court. The applicant has mentioned in his applications that his tour is for the one and half month. It is argued on behalf of the applicant / accused that the applicant is ready to abide by the conditions imposed by the Court.

5] It is pertinent to note that pendency of criminal case against the applicant/accused is no ground for refusing permission to depart from India.

Hence, in the light of ratio laid down by the Hon'ble Bombay High Court in the case of *Deepak Dwarkasingh Chhabria Vs. Union of India and another, reported in 1996(2) MHLJ 877*, this court is empowered to permit the applicant/accused to depart from India. Considering this ratio and in the light of nature of offence and as the applicant is ready to abide by the conditions imposed by the court and considering the ground mentioned in the application, the applicant is entitle for grant of permission to depart from India and issuance of no objection for the passport, as argued and prayed on behalf of the applicant. Therefore, the present application deserves to be allowed. In result, I pass the following order :-

ORDER

- 1] Application is allowed.
- 2] Applicant/accused No.2 Rupesh Atmaram Soni is permitted to depart from India for the period commencing from 01.06.2022 to 15.07.2022 (as stated in his application), subject to following conditions :-
 - a) After returning back to India, the accused shall regularly attend the court in above referred case.
 - b) Accused shall not tamper or hamper with the prosecution witnesses in any manner.
 - c) Accused shall undertake that his learned Advocate shall attend the matter and if required shall conduct the same, in absence of the accused and shall not dispute the identity of the accused.
 - d) Accused to submit the true copy of his passport and Visa and submit his tour programme, before he proceed to leave the country.
 - e) The applicant / accused no.2 shall submit the information regarding his contact number and residential address, where he is residing abroad.
 - f) The applicant shall submit his business license or any other relevant document regarding his business.
 - g] Compliance of the conditions of this order, by the applicant, is the condition precedent for giving effect to this order.

- h) Accused shall submit on record all necessary verified documents, which are required for traveling abroad.
- i) Applicant to follow all directions / circulars of the Government issued regarding COVID-19 and this order is issued subject to the same.

Nagpur.
Date : 13.04.2022

(P. S. Ingle)
Additional Chief Judicial Magistrate,
Nagpur.