IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Writ Petition No.4670 of 2025

Sruti Vijaykumar … Petitioner
V/s.
Falgun Yogendra Shroff and anr. … Respondent/s.

Shyamrishi R. Pathak, Sr. standing Counsel i/b. Ganesh Singh, Jyoti Borai	Advocates for the Petitioner.
Ms. Sruti Vijayakumar D.D. a/w. I.O. Shri Umesh Gupta	Advocate for the Petitoner a/w. I.O.
Dr. Sujay Kantawala, Bhushan Shah, Akash Jain, Aishwarya Kantawala, Mohd. Lokandwala, Jeffry Caleb, Ayushi Jha, Gaurav Ekekar i/b, Mansukhlal Hiralal & Co.	Advocate for Respondent No.1.
Mr. A.S. Gawai	APP for the State.

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CORAM : S.M. MODAK, J

DATE : 03rd September 2025.

P.C. :

The Court of Additional Chief Judicial Magistrate Esplanade as per the order dated 30th August 2025 has granted permission to Respondent No.1 to travel abroad including Paris and France from 4th September 2025 till 10th September 2025. The present petition challenges this order and also there is a prayer for staying the said

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order. As the Respondent No.1 is likely to leave India tomorrow., this petition is taken on production Board. Learned Advocate Dr. Shri Kantawala appeared on his own to represent Respondent No.1. I have heard both of them. By their consent I am deciding this petition finally.

2. The present Respondent is an accused in connection with File No.DRI/MZU/CI/INT-77/2025 registered with Directorate of Revenue Intelligence (for short 'DRI'), Mumbai for an offence punishable under Section 135(1)(a) and 135(1)(b) of the Customs Act. He was granted bail by the Court of Additional Chief Judicial Magistrate on 2nd August 2025. **Condition No.6** mentions about surrendering the passport for the period of six months from the date of arrest. He has surrendered the passport. **There is a further condition** to obtain the permission for travelling abroad.

3. After this order, Respondent No.1 applied for returning the passport and sought permission to travel abroad. This permission was sought as there is a **furniture fair** at Paris from 4th September 2025 to 8th September 2025. It is mentioned in Para No.5. The trial Court has granted the permission inspite of the objection on behalf of DRI. **The said order is under challenge**.

4. According to Dr. Shri Kantawala permission is granted only for short period and he justified the right of his client to travel abroad being a fundamental right and to attend the international furniture

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fair organised at Paris. He produced on record the relevant papers showing the organization of that fair. Admittedly, these papers were not annexed to the application before the trial Court but they were tendered when Application was argued. He tried to explain what are the allegations against his client. Even he places on record copy of order dated 26th August 2025 passed by the Court of Additional Sessions Judge when application for cancellation of bail was adjourned and the learned Advocate for the Applicant-DRI was asked to argue on the issue of maintainability and now the matter is fixed for hearing on 11th September 2025.

5. He places reliance on the observations in case of ***Dr. Rajaram v/s. State of Maharashtra***[1] and more specifically observations in Para No.6. It is in respect of power of the Magistrate to modify the conditions. When there is apprehension expressed by Mr. Pathak that the Respondent may tamper with evidence by contacting the exporters, Shri Kantawala submitted that his client undertakes not to meet those exporters.

6. Primarily, there is opposition for grant of permission for the reason application for cancellation of the bail is pending before the Court of Additional Sessions Judge, Greater Mumbai. The Petitioner apprehends that Respondent No.1 will tamper with the evidence when he will travel to Paris and France. Respondent No.1 is facing allegation of importing the furniture and other accessories by

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misdeclaration of the goods and undervaluation of imported furniture. According to DRI the evasion of custom duty is excavated to Rs.30 Crores.

7. Learned Advocate Shri Pathak has invited my attention to Para Nos.6 and 10 of the reply filed by DRI thereby opposing the prayer to travel abroad. According to Mr. Pathak even the learned Magistrate is not having power to modify the condition. He places reliance on the provisions of Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (for short 'B.N.S.S.') which empowers this Court and Court of Sessions to modify the conditions imposed by the Magistrate. According to him even there is provision in Section 403 of B.N.S.S. which empowers the Court to alter the judgment, the present contingency will not fall under Section 403 of B.N.S.S. He places reliance on the order passed by this Court (Coram: S.M. Modak, J) on 5th April 2023 in case of ***Mayurkumar Jaysukhlal Gohel v/s. Union of India and anr.*** in Criminal Application No.336/2023. This Court has refused to entertain the prayer to travel abroad because an application for cancellation of bail was pending.

8. It is true right to travel abroad is recognized as a fundamental right. Merely because a person is facing with prosecution, it does not mean that he cannot travel abroad till the time the investigation is under progress or criminal case is pending. Admittedly, the case is under investigation that is to say the DRI is in the process of

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collecting materials. When such a request is made on the say of investigator, the Court has to consider whether there is possibility of tampering with the evidence if the permission to travel abroad is granted. There is one more factor which deals with availability of the accused person during the investigation. **Ultimately, Court has to balance** right of the investigating agency, on one hand and the right of the person facing prosecution to travel in India and abroad, on the other hand.

9. It is true that DRI has not disputed the averments made in the application about organising the furniture fair at Paris. Mr. Pathak tried to explain this non opposition by submitting that the photos were not annexed to the application. But these were averments is not disputed

10. Considering the averments and the photos and non-rebuttal by DRI, it is difficult to doubt about holding furniture fair. It is no doubt true that application for cancellation of bail is pending for consideration before Sessions Court. It is also true that it is at the stage of hearing on the point of maintainability. The Respondent No.1 is served private notice of the said application for cancellation of bail.

11. I have gone through the observations in case of *Dr. Rajaram (supra).* The conditions were imposed by the concerned Magistrate and issue of relaxation by the Magistrate was under consideration. Learned Single Judge observed "*thus by necessary implication the*

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Court of JMFC is having implied power of relaxing the conditions which are imposed by it while granting bail". No doubt in case of *Mayurkumar (supra)* permission to travel was refused. Some facts are common but material facts are different. Family of Petitioner was residing at Dubai. So there was possibility of staying at Dubai. Here facts are different.

12. Even I am of this opinion that mere because investigation is going on, the Respondent No.1 cannot be restrained from attending international furniture fair. Already the learned Magistrate has directed Respondent No.1 to deposit cash surety of Rs.2 lacs with condition to claim refund. One does not know how much time will be taken for hearing of application for cancellation of bail. It is scheduled for hearing on 11th September 2025 whereas till the time of hearing the fair will be over. The permission is granted from 4th September 2025 till 10th September 2025.

13. Respondent No.1 through learned Advocate undertakes that he will return to India and will participate in hearing the application for cancellation of bail. Conduct of international furniture fair depends upon the organisers and it is not that the present Respondent No.1 has organised that furniture fair. I am not inclined to stay the impugned order. **There can be an additional condition** that Respondent No.1 through his learned Advocate undertakes not to establish contact with the Exporters who are related to this case. So far as present investigation is concerned, let the Respondent No.1

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to give an undertaking to that effect before the Court of learned Additional Judicial Magistrate prior to leaving India.

14. With this additional safeguard, no stay to the impugned order is warranted. In view of that order does not require any interference. Hence, the writ petition is dismissed.

(S.M. MODAK, J.)

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