

Court No. - 13

Case :- APPLICATION U/S 482 No. - 7002 of 2024

Applicant :- Rukhsana Khatoon

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Govt. Lko. And Another

Counsel for Applicant :- Huzoor Alam Alvi,Zeeshan Alvi

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania,J.

Heard Sri Saquib Zia Khan, Advocate holding brief of Huzoor Alam Alvi, learned counsel for the applicant and learned counsel for the State and perused the record.

By means of the present application, the applicant has assailed the order dated 20.03.2024 passed by the Additional Chief Judicial Magistrate, CBI, Lucknow in Criminal Case No. 90145 of 2022 (State vs. Mohd. Ammar & Ors.), arising out of Case Crime No. 326 of 2022, under Section 419, 420, 467, 468, 424, 275 and 34 IPC, P.S.-Thakurganj, District-Lucknow on the application dated 13.03.2024 preferred by the applicant seeking permission to travel abroad to perform 'Umrah'.

Learned counsel for the applicant submitted that the manner in which the trial court has rejected the application of the applicant seeking permission to visit abroad for performing 'Umrah' is unsustainable in the eye of law, as it is against the settled preposition of law including the law laid down by the Hon'ble Apex Court in this regard whereby the Hon'ble Apex Court observed that right to travel abroad is covered under Article 21 of the Constitution of India. Reference can be made to the judgment passed in the case of *Maneka Gandhi vs. Union of India, AIR 1978 SC 597 and Parvez Noordin Lokhandwalla vs. State of Maharashtra and another, (2020) 10 SCC 77.*

He further submitted that the reasoning given by Court concerned in the order impugned dated 20.03.2024 to the effect that according to religious belief, it is necessary to any person to perform only 'Hajj' and going on 'Umrah' is not such an essential act even from the religious point of view, is completely misconceived. However, the same was taken note of while passing the order impugned dated 20.03.2024.

He further submitted that the applicant is ready to furnish heavy surety including the surety to the tune of Rs. 5 lakh each.

Considered the aforesaid.

'Umrah' is a journey to Muslim's most sacred place. 'Umrah' is known as minor pilgrimage while 'Hajj' is the main pilgrimage. 'Umrah' is considered as a journey to holiest place of Muslim's and a journey of devotion to Allah.

Taking note of aforesaid including the age of the applicant, this Court is of the view that the applicant be permitted to visit Saudi Arabia for 'Umrah'.

Accordingly, the order dated 20.03.2024 is hereby set-aside. The applicant is permitted to visit abroad for performing 'Umrah' subject to furnishing her personal bond and two sureties of Rs. 5 lakh each of family member to the satisfaction of Magistrate/Court concerned.

The applicant shall also file an affidavit of undertaking indicating therein the reasonable period for visiting Saudi Arabia for 'Umrah' and also that she will not raise any objection during or after trial if any evidence is adduced by the prosecution in her absence during the said period.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

The instant application is ***allowed*** in above terms.

Order Date :- 9.8.2024

Vinay/-