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**IN THE COURT OF PRINCIPAL DISTRICT & SESSIONS
JUDGE, AHMEDBAD [RURAL] AT AHMEDABAD.**

Exh. : _____

Criminal Misc. Application No.615 of 2026

APPLICANT

Bhupeshbhai Kanaiyalal Shah

Age: 58 yrs, Occup: Business,

Residing at 9, Gayatri Society,

Jawahar Chowk, Maninagar,

Ahmedabad 380008.

V e r s u s

OPPONENT

1. **State of Gujarat**

Notice to be served through

Ld. Public Prosecutor,

District and Sessions Court,

Ahmedabad (Rural).

2. **Regional Passport Officer,**

Regional Passport office,

Opp. LD Engg. College Hostel

University Road, Gulbai Tekra,

Ahmedabad 380006.

Subject: **Application seeking release of Passport for renewal, 'no objection'/direction for renewal for validity of 10 years and to retain it for 1 year;**

APPEARANCE:

Ld. Adv. Mr. Aaditya D. Bhatt / Ms. Chandni S. Joshi for the applicant.

Ld.P.P. Mr. P.M. Trivedi the opponent State

:: JUDGMENT::

1. This application has been preferred by the applicant seeking release of his Passport, no objection/direction for renewal of Passport for a period of 10 years validity and permission to retain Passport for 1 year period.
2. Ld. Advocate Ms. Chandni Joshi appearing for the applicant submits that in connection with FIR CR No.4/2022 registered with ATS Police Station applicant was granted bail by this Hon'ble Court vide order dated 2/12/2022 passed in Cri. Misc. Appl. No.3754/2022 with suitable conditions including condition no.5 which reads as under:

5 The applicant is required to surrender his Passport before the Trial Court within one week of the order, if he possess. If he does not have in that case affidavit be made to that effect before the Trial Court.

- 2.1 It is submitted that pursuant to the order applicant surrendered his Passport before the Trial Court and is lying in the Court since 2022. It is further submitted that prior to the present ATS case applicant had been required to surrender his Passport on 29/1/2020 to the Passport

authority pursuant to adverse inputs received from the Vastrapur police station (FIR No.I-79/2018) pursuant to direction issued in PIL No.270/2018. Aggrieved by the said surrendered applicant filed Spl. Civil Appl. No.1907/2021 before Hon'ble High Court seeking quashing of surrender and reissuance of passport. The Hon'ble High Court of Gujarat vide order dt. 3/3/2021 was pleased to allow the petition and directed Opp.No.2 passport authority to process application of the applicant and issue passport for validity for a period of 5 years in terms of Notification dt. 25/8/1993 issued by Ministry of External Affairs. It is stated that applicant's passport is either expired or is nearing expiry and therefore he wants to renew the same for 10 years validity. Reliance is placed on the decision of the Hon'ble High Court of Gujarat in the case of *Mayank Anilbhai Tiwari vs Union of India and Anr in R/Spl. Civil Appl. No.13302/2025*. सत्यमेव जयते

- 2.2 It is further stated that applicant is businessman engaged in legitimate commercial activities and for business operation he requires to travel abroad frequently. The retention of Passport has caused financial hardship and professional setback. He also needs to travel abroad for potential fiancés/alliance of his elder daughter in foreign country and for education purpose for his younger daughter also. It is stated that applicant is permanent resident of Ahmedabad with deep roots in the society and not likely to abscond. It is further submitted that passport of the applicant was earlier released by this Court for visa

renewal purpose and applicant has timely redeposited it in the Court. It is submitted that applicant will abide by the conditions that may be imposed and urged to release his passport and direct the concerned authority to renew the Passport for 10 years period and permit the applicant to retain passport for a period of 1 year.

3. The Public Prosecutor Mr. P.M. Trivedi submits that he has no objection for renewal of Passport as per the norms. He relied upon the report of the I.O. (Exh.7) and urged to pass appropriate order.
4. Heard Ld. Advocates of the respective parties. This Court has gone through the application, report of the I.O. and documents annexed to it. This application is preferred by the applicant seeking release of his Passport, no objection/direction for renewal of the Passport Authority with validity of 10 years and permission to retain Passport for 1 year.
 - 4.1 It appears that applicant has been granted bail by this Court vide order dated 2/12/2022 passed in Cri. Misc. Appl. No.3754/2022 with suitable conditions including condition no.5 which is referred above. Pursuant to the said condition No.5 the applicant deposited / surrendered his Passport before the Court.
 - 4.2 It is stated that prior to the present ATS case applicant had been required to surrender his Passport on 29/1/2020 to the Passport authority pursuant to adverse inputs received from

the Vastrapur police station (FIR No.I-79/2018) pursuant to direction issued in PIL No.270/2018. It is stated that applicant had filed Spl. Civil Appl. No.1907/2021 before Hon'ble High Court seeking quashing of surrender and reissuance of passport and the Hon'ble High Court of Gujarat vide order dt. 3/3/2021 was pleased to allow the petition and directed Opp.No.2 passport authority to process application of the applicant and issue passport for validity for a period of 5 years in terms of Notification dt. 25/8/1993 issued by Ministry of External Affairs. Now, the applicant's Passport lying in the Court is either expired or is nearing expiry and therefore he wants to renew the same for 10 years validity.

- 4.3 The issue with regard to issuance of the Passport has been made clear by the Notification issued by Ministry of External Affairs dated 25/8/1993. The Hon'ble High Court in the case of ***Vipulbhai Chandulal Thakkar vs The Regional Passport Office*** has observed in para 9 and 10 of order dated 1/5/2025 in Spl. Civil Appl. No.3460/2025 as under:

9. Though the said decision is not binding on this Court, it has certainly a persuasive value. In the considered opinion of this Court, the ratio of the said judgment squarely applies in the facts and circumstances of the present case. The Central Government has issued a Notification by exercising powers vested in it under Section 6(2)(f) of the Passport Act, 1967 being GSR Notification 570(E) dated 25.08.1993. There being an ambiguity under the provisions of the Act, the Rules and the GSR Notification 570(E) dated 25.08.1993 issued by the passport authority, the

Division Bench of the Bombay High Court has clarified the said ambiguity in case of Narendra K. Ambwani (supra). This Court is also of the considered opinion that the passport authorities do not have any authority to decide whether the accused has a right to travel abroad and such authority is only vested in the Trial Court which can impose conditions if an application is made seeking permission to travel abroad. This Court is of the considered opinion that the directions issued by the Bombay High Court are binding upon the passport authorities to renew the passport for a period of 10 years as per the Act and the Rules.

10. In view of the aforesaid reasons and observations, the respondent authorities are directed to renew the passport of the petitioner for a period of 10 years. However, it is clarified that if the petitioner has to undertake any travel abroad, he will have to make appropriate application to the Trial Court seeking permission to travel abroad, which shall impose such conditions as it deems fit and proper in case of the petitioner. If any application for renewal of the passport is made by the petitioner, the same be decided expeditiously within a period of 4 weeks from the date of such application.

The Hon'ble High Court of Gujarat in R/Cri. Misc. Appl. No.2034/2025 and in R/Cri. Misc. Appl. No.2035/2025 dt. 21/3/2025 has passed following order:

" In view of above position and considering the facts of the case, the Regional Passport Authority is directed to process the application filed by the writ-applicant herein for a Passport and issue the Passport with a validity period of 5 years, in terms of the Notification referred to above. This exercise shall be completed within a period of two weeks from the date of receipt of writ of this order."

4.4 The applicant has further prayed that he wants to retain his Passport for 1 year on the ground that he being businessman requires to travel abroad frequently and he also wants to travel abroad for potential fiancés/alliance in foreign country for his elder daughter as well as for education purpose of his younger daughter. It appears that passport of the applicant was earlier released by this Court vide order dt. 17/1/2024 in CRMA No.88/2024 for visa renewal purpose and applicant has timely redeposited it in the Court. The prosecution has not brought on record anything with regard to breach of any bail condition by the applicant/accused and there is no such allegation against the applicant.

4.5 In view of facts and circumstances noted hereinabove following order is passed in the interest of justice:

ORDER

1. The application is **partly allowed**.
2. Passport of the applicant be handed over to the applicant (after due verification) for a period of six months from the date of this order.
3. Applicant is hereby permitted to get his Passport renewed as per the prevailing norms so far as the present offence is concerned. The Regional Passport Authority may renew the existing passport of the applicant with a validity period of **5 (five) years**, in terms of notification/circular of Ministry of External

Affairs dated 25/8/1993, if there are no other legal impediments.

4. The applicant shall surrender/redeposit his **renewed** passport before the Court immediately on completion of **6 months period**.
5. The applicant shall take prior permission of the Court before travelling abroad.

This order be intimated to the concerned passport authority.

Pronounced and signed in the open Court today.

Date: 18/3/2026

(Kamal M. Sojitra)

Principal District & Sessions Judge

Ahmedabad (Rural).

(Code : GJ01494)

vsb

