

**ORDERS ON APPLICATION FILED BY THE COUNSEL
FOR THE ACCUSED NO.2 SEEKING PERMISSION FOR
RENEWAL OF PASSPORT.**

The present application is filed by the accused No.2 when the matter was posted for HBC. In the application the accused No.2 has stated that he is charged for the offences alleged under Section 143, 144, 148, 427, 506, 341, 504, 324 R/w Section 149 of I.P.C. It is stated that he is the holder of Indian Passport bearing No.L0022409 and currently having his family residing in London and his presence is required for family obligations over there. It is further stated that the accused No.2/Applicant's passport has expired on 23.03.2023 and he requires permission from this Court for renewal of the said passport. The accused No.2/Applicant has stated that he is regularly present before this Court and he has no intention to flee away from the jurisdiction of this Court.

2. It is further stated that the renewal of the passport is necessary as accused No.2/applicant needs to travel to London to fulfill his parental responsibilities as his wife stays there and his son is about to start his education. That the accused No.2/applicant's son is currently going to pursue education in London and his presence is required to provide guidance, support and fulfill family obligations during crucial period.

3. It is further stated that the accused No.2/applicant approached the passport authority for the renewal of the passport, but the request was rejected due to the pending case and the authority has requested a necessary order/permission from this Court. The accused No.2/Applicant has further stated that as per the notification of Ministry of External Affairs 1993, the renewal of the passport requires a fresh Court Order specifying a **further period of validity or a specified period for travelling abroad**. The accused No.2 is ready to comply with all the directions provided in the notification of August 25, 1993 "GSR 570(E)" of Ministry of External Affairs.

4. It is further stated that as per Section 5 of the Passport Act says issuance of passport includes renewal. Further the person facing criminal trial has to get the permission of the Court and renew the passport.

5. The accused No.2/Applicant has further stated that as per **Section 6(2)(f) of Passport Act**, the holder of passport for its renewal has to produce an order from the Court concerned where the proceedings against him are pending in respect of an offence alleged to have been committed by him, permitting him to depart from India. It is stated that in view of the condition as per Section 6(2)(f) of Passport Act, the accused has to renew his passport only by the orders of Court.

6. In the application the accused No.2/Applicant has relied upon the decision in **2024 Supreme (online)(HC) 2684, Writ Petition No. 4202 of 2024, Sri Vikram C. Dembla and Regional Passport Officer Government of India.**

Wherein, the Hon'ble Apex Court has held in para No.20 on a coalesce of the provisions of the act, the rules, the judgments rendered by the coordinate benches, its restriction by the Apex Court and the judgment rendered by this bench, would all lead to an unmistakable conclusion that section 6(2)(f) and GSR 570 Notification makes a person ineligible for issuance of passport. The issuance would include renewal of re-issuance. Separate yardstick is nowhere indicated in the Acts or the Rules. The rules cannot be rendered flexible to such circumstances by a stroke of pen or fiat of this Court in exercise of its jurisdiction under Article 226 of the constitution of India. As long as section 6(2) (f) stares at any application, be it for fresh, renewal or re-issuance, such application cannot be directed to be granted diluting the rigor of section 6(2) (f). The application is under a cloud, **"if an applicant of the kind in the case at hand, wants to walk over the clouds; the cloud over such applicant must walk away"**.

7. The accused No.2/Applicant has further relied upon on the decision in **2023 SCC online AP 406, Hon'ble High Court of Andhra Pradesh, Writ Petition No. 1392/2023. Kadarvalli Shaik Vs Union of India represented by Secretary, New Delhi and others.**

Wherein, the Hon'ble Apex Court has held in

103.i) Issue of passport in Section 5 of the Passports Act includes Renewal of the passport as well.

103.iv) In a case where clause (f) of Section 6(2) is attracted, the holder of the passport for its renewal, will have to produce an order from the Court concerned, where the proceedings against him are pending trial in respect of an offence alleged to have been committed by him, permitting him to depart from India.

8. The accused No.2/Applicant has stated that as per the above mentioned citations, it is very clear that this Court has ample power to order the renewal of the passport and he assures this Court that he will fully comply with any conditions imposed by this Court for the renewal of the passport and will not misuse the passport. It is further submitted that the accused No.2/applicant undertakes to inform this Court of any travel plans and will appear before the Court as and when required. It is further stated that if the accused No.2 is not permitted to get renew the passport which has expired on 23.03.2023, he will be put to injustice and will suffer a great loss.

9. Along with the present application the counsel for the accused No.2 has produced the following:

- 1.** The notification of Ministry of External affairs 1993.
- 2.** 2024 SUPREME (Online) (HC) 2684, Writ Petition No. 4202/2024, Sri Vikram C Dembla and Regional Passport Officer, Government of India.

- 3.** In the High Court of Andhra Pradesh, 2023 SCC Online AP 406, Writ Petition No. 1392/2023, Kadar Valli Shaikh and Union of India Represented by its Secretary, New Delhi and others.
- 4.** Notarized copy of the clarification dated 05.07.2024 sought by the Regional Passport Office, Koramangala, Bengaluru.
- 5.** Notarized copy of the Passport with No.L0022409.
- 6.** Notarized copy of the Aadhar Card.

10. The learned A.P.P. filed objections stating that the application is not maintainable either in law or on facts and circumstances of the case. It is contended that the passport authority has renewed the passport of the accused every year as per its rules. Seeking direction from this Court to the passport authority to renew the passport of the accused No. 2 is not maintainable under the law. The passport authority is the independent authority and it has its own rules and regulations to renew the passports. It is contended that this Court has no authority to give direction to the Passport Authorities to renew the passport of the Accused No.2. It is further contended that if the passport of the accused No.2 is renewed then there is a chance for the accused No.2 of absconding from the jurisdiction of this Court which will cause delay of the trial. It is contended that if the present application is not allowed it will not cause any loss to the accused No.2.

11. The learned APP has further contended that the accused No.2 has not produced any documents to show that his family is residing in London and also in respect of the details of his family members and about the exact details of the expiry of the passport. The learned APP has further contended that a counter cases are also pending before this Court in respect of the present case and if the present application is allowed then there is a possibility of the accused No.2 remaining absent at the time of trial and the

Passport Authority is not having the information of the pending criminal case against the accused No.2. Hence, on these grounds the learned APP has prayed to reject the application with cost.

12. Heard and perused the documents.

13. Now, the points that would arise for my consideration are:

- 1) Whether the accused No.2/applicant made out sufficient grounds to allow this application?
- 2) What order?

14. My findings to the above points are as under:

Point No. 1 : In the Affirmative,

Point No. 2 : As per the final order
for the following;

REASONS

15. Point No. 1:- The offences alleged against the accused No.1 to 5 are punishable under Section 143, 144, 148, 427, 506, 341, 504, 324 R/w Section 149 of I.P.C. and when the matter was posted for hearing before Charge, the counsel for the accused No.1 to 5 has advanced the matter and filed the present application on behalf of the accused No.2 and opposed by the learned APP. In this case as Accused No.3 is absconding a spilt charge sheet was filed against him and a spilt up case was registered against the Accused No.3 in C.C.No.33/2025. The learned APP has argued that as per the passport rules only the passport authority is having the authority to impound the passport and also has the right to issue and renew the passport accordingly and this Court has no jurisdiction to issue direction to the passport authority to renew the passport of the accused No.2. On the other hand the counsel for the accused No.2 has placed his reliance upon the Notification of Ministry of External affairs 1993 and prayed that permission

may be granted by the Court for the renewal of the passport of the accused No.2 as he wants to go abroad for his family obligations.

16. At this juncture it is necessary to enumerate the Notification dated 25 August 1993, issued by the Ministry of External Affairs, Government of India, in G.S.R. 570(E) as follows:

"G.S.R. 570(E)-In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No. G.S.R. 298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempt citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of section 6 of the said Act, subject to the following conditions, namely:--

(a) the passport to be issued to every such citizen shall be issued--

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a) (i) and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued."

17. It is well settled law that a Court may issue a 'No Objection Certificate' (NOC) for passport renewal if a criminal case is pending against the applicant. The Court may also direct the applicant to submit an undertaking not to leave the country without permission. Further the Hon'ble Supreme Court has ruled that a passport cannot be refused for renewal if a criminal case is pending. In the present case the accused No.2/applicant has produced the notarized copy of his passport which shows the date of expiry as 23.3.2023. Further the applicant/accused No.2 has submitted that he is intending to go to London for the purpose of education of his son and for the purpose of discharging his family obligations. The applicant/accused No.2 has not specified the time period of his travel abroad. Therefore, at this stage it can be construed that the passport of the applicant/accused No.2 will be renewed by the concerned Passport Authority for a period of one year as per the Official Memorandum dated 25.08.1993. As per the notification of the Ministry of External Affairs, dated 25.08.1993, the renewal of the passport

requires a fresh Court order specifying a further period of validity or a specified period for travelling abroad. Looking to the facts and circumstances of the case and the nature of the offences alleged against the accused No.2/applicant, it would be appropriate to permit the accused No.2/applicant to renew his passport and the apprehension raised by the prosecution can be met by imposing certain conditions on the accused No.2/applicant. Hence, Point No.1 is answered in the Affirmative.

18. Point No.2:- In view of the reasons and findings given on Point No.1, I proceed to pass the following:

ORDER

The application filed by the accused No.2/applicant is hereby allowed and permission is granted to the applicant/accused No.2 for renewal of his passport with **No.L0022409** on the following conditions;

1. The Passport Authorities can consider the application of A2 for renewal of his passport by relying upon the Official Memorandum dtd.25.08.1993.
2. The accused No.2/applicant shall undertake to furnish his Travel details and shall appear before the Court as and when required.
3. The accused No.2/applicant shall not leave the country without prior permission of the Court.
4. The accused No.2/applicant is directed to comply with all the directions provided under the Notification/Official Memorandum dated 25.08.1993,“GSR 570(E)” of the Ministry of External Affairs and any condition which may be imposed by the concerned Passport Authority.

- 5.** The accused No.2/applicant shall furnish the notarized copy of the renewed passport before the Court.
- 6.** The accused No.2/applicant shall comply with all the conditions without fail and report back to this Court immediately on the expiry of the travel period abroad as specified in the application.

Sd/- 12.02.2025.
Civil Judge and JMFC,
Koppa.