

MHAU030079912017



S.C.C. No.4528/2017
State Vs. Jagannath & others

ORDER BELOW EXH. 39

1. This is an application for granting of N.O.C. of this court for renewal of passport. Criminal cases bearing S.C.C. No.4528/2017, is pending against accused No.2 before this Court. Thus, passport authority decline to renew passport to the applicant/accused no.2 and directed him to seek the permission of Court before whom the case is pending. Said application is resisted by Ld. APP.

2. It is well settled that issue/renewal of passport can not be straightaway refused on the ground of pending criminal case. Passport Authority is required to follow procedure laid down in Notification dated 25th August, 1993 and directions given in the case of Deepak Dwarakasingh Chhabria Vs. Union of India, **AIR 1997 Bombay 181**.

3. In the case of Shayam Dwarakadas Chhabria Vs. Regional Passport Officer reported in **2000 ALL MR (Cri.) 5**, the Hon'ble Bombay High Court held that :

"In all cases covered by Section 6(2)(f) of the Passport Act, 1967, the Passport Authority shall forthwith inform the applicant about his right to apply to the concerned Criminal Court for permission to travel around in terms of the Notification dated 25th August, 1993. In case the applicant demands the copy of notification, this Court directed that the same shall be supplied by the Passport Authority subject to payment of charges. The applicant can approach the Criminal Court, where criminal case against him is pending for permission to travel out of India. Even if he has not received summons from the Criminal Court, it will be open for the applicant to apply to that Court

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for a limited purpose of issuing the necessary orders for grant and / or renewal of passport. Considering the fact that the matter involves the fundamental right of the applicant, Court to decide such application as expeditiously as possible and preferably within four weeks from the date of receipt of such application, after notice to the prosecution. In the case the Criminal Court passes an order for issuance of passport, the Passport Authority shall forthwith issue the passport to the applicant subject to the terms and conditions mentioned in the Notification but without making any endorsement on the passport about the pending criminal case."

4. Taking into consideration the above citation, it appears that passport cannot be straightaway refused on ground of pending criminal case. On perusal of nature of the cases pending against the accused No.2, it appears that this cases is recent one and are not likely to be decided recently. Applicant/ accused No.2 wants to N.O.C. of this court for renewal of his passport. Considering above facts and circumstances and considering the above citation, it is my considerable view that the application deserves to be allowed. Thus, following order is passed.

ORDER

- 1) Application is allowed.
- 2) The passport authority is at liberty to grant renewal of passport to the applicant Prakash Kachru Patil as per rules, the court has no objection to grant renewal his passport.
- 3) Accused is directed to inform to the court in respect of his foreign trip.
- 4) The certified copy of this order be given to the applicant free of costs.

Aurangabad.
Dt.29/11/2022

 29-11-2023
(Swapnil L. Ramteke)
13th Judicial Magistrate (F.C.),
Aurangabad.