

MHKO030019972012



Order below Exh.55 in
Regular Criminal Case No.479/2012

State of Maharashtra

V/s.

1. Manik Lalchand Gandhi

This is an application by applicant/accused No.1 to grant no objection for issuance/renewal of passport.

2.Brief contents of the application are as under :-

The present case is pending against the applicant/accused No.1 for the offences under Sections 193, 342, 467, 468, 471, 420, 323, 504, 506, 409, 511 read with 34 of the Indian Penal Code, 1860. It is contended that, the present case is pending against the applicant/accused No.1. The applicant/accused No.1 is permanent resident of Kolhapur city. It is further contended that, the applicant wants to draw his passport. He is ready to abide by all conditions imposed by the Court. Hence, the application.

3.Learned A.P.P. filed her say and contended that, the offence is serious and there is possibility of his fleeing away cannot be ruled out. Therefore, application be rejected.

4.Heard both sides. In consonance with the arguments advanced at bar, I have gone through relevant provisions and record of the proceeding. In catena of judgments, it has been observed by the Hon'ble High Court that, passport can be refused only in case of conviction during period of 5 years immediately preceding the date of application for an offence involving moral turpitude and sentence

of imprisonment for not less than two years. Passport cannot be refused to be renewed or issued on the ground of pendency of criminal case or appeal. Similarly in one case the Hon'ble their Lordship has specifically observed that, pendency of criminal/matrimonial cases cannot be a ground to deny the passport. Though the facts of case in hand and supra cited decisions are different, but the legal position discussed in these cases will be applicable to each and every case in which the passport is either to be renewed or issued in case of pending criminal case.

5. Keeping in mind the settled position of Law here, I would like to discuss case in hand. As per settled proposition of Law provided under Section 6 of the Passport Act, 1967, in case where a criminal case is pending for issuance of renewal of passport, permission of the concerned Court is necessary. In this regard, notification No. R570(E) dated 25/08/1993, issued by the Ministry of External Affairs is also to be looked into.

6. In view of the aforesaid notifications by the Central Government, it is clear that the citizens against whom criminal cases are pending are made exempt from the operation of Section 6(2)(f) provided they produce orders from the concerned Court permitting them to travel abroad subject to the terms and conditions mentioned in the notifications. A bare reading of this Notification makes it clear that, an application for passport is not liable to be refused on the ground of pendency of criminal case, if the applicant obtains permission from the concerned Criminal Court.

7.Thus, on the basis of settled proposition of law on this point and notification dated 25.08.1993, the legal position is that the issuance/renewal of passport is subject to the permission of this court.

8.The applicant/accused is permanent resident of Kolhapur city. Nothing is on record to show that, the applicant is convicted of such offences within 5 years period immediately preceeding the date of application for issuance of passport. His learned advocate is ready to conduct the matter in his absence. Therefore, considering above circumstances, there are no justifiable grounds for rejecting the application. Hence, the following order :-

ORDER

- 1) Application is allowed.
- 2) The applicant/accused No.1 Manik Lalchand Gandhi is hereby permitted to apply for issuance/renewal of passport and no objection is given for that purpose but, subject to the Passport Rules and scrutiny thereunder.
- 3) The applicant/accused No.1 to furnish his personal bond of Rs.15,000/-.
- 4) The applicant/accused No.1 to remain present in the court as and when ordered and directed by this court.
- 5) The applicant/accused No.1 shall intimate the Court before leaving the jurisdiction of this court whenever he intends to go out of India.

Kolhapur.
Date: 14.11.2025.

(M. M. Gadiya)
Chief Judicial Magistrate,
Kolhapur.