

**MHKO120001382006**



**Reg. Cri. Case No.40/2006**  
(CNR No.MHKO120001382006)

**Order below Exh.635**

This is an application filed by applicants i.e. accused No.34 – Sayaji Bapuso Desai and accused No.46 – Nirmala Sayaji Desai for seeking permission to apply for obtaining the passport.

02. The applicants are accused Nos.34 and 46 respectively in this case which is for the offences punishable under Sections 408, 420, 422, 423, 463, 464, 465, 468, 477(A), 120(B) of Indian Penal Code. The case is pending for framing of charge. During the pendency of the present case, the applicants filed this application and contended that, they want to go abroad due to their professional reasons and for that purpose they needs to apply to passport authority for obtaining passport. But due to the present case they want to proceed further with prior permission of the Court. Hence, this application.

03. Perused the application and say of Ld. A.P.P. at Exh.636. Heard, Ld. advocate for applicants and Ld. A.P.P. for the State.

04. The Ld. advocate for applicants submitted that, they will follow each and every condition imposed by the Court and they will not hamper the criminal proceeding. The Ld. A.P.P. filed his say and contended that, upon imposing condition that, after getting passport from authority, applicants will deposit the same in the Court, application be allowed.

05. In view of the judgment delivered by the Hon'ble High Court of Bombay in Shyam Dwarkadas Chabira Vrs. Regional Passport Officers, reported in 2000 Cr.L.J. 2942, 'the pendency of a criminal case is not a bar for the issuance of Passport.' The record shows that, the applicants are permanent resident of Gargoti, Tal. Bhudargad. In the present case, the charge against accused persons is yet to be framed. The trial will take it's own time to get completed.

06. When the trial is not likely to be completed within near future, I do not see any reason to reject the prayer of applicants. In the result, the application is allowed in following terms. Accordingly, I pass the following order.

### **ORDER**

1. The application is allowed.
2. The applicants i.e. accused No.34 – Sayaji Bapuso Desai and accused No.46 – Nirmala Sayaji Desai are permitted to apply for passport, subject to the prevailing rules and conditions.
3. The applicants to obtain necessary permission of the Court prior to traveling abroad.

Date : 26/09/2023

( V. B. Mulla )  
Judicial Magistrate First Class,  
Gargoti