

S.C.C. No.450/2022
Khushan vs State
ORDER BELOW EXH.4

Applicant / accused Khushal @ Rahul Rameshlal Waswani has filed application for grant of NOC for issuance of passport.

2. It is averred in the application that applicant is permanent residence of Jaripatka, Nagpur. He is businessman. He wants to go to abroad for business purpose in the month of April. However, passport office may not issue passport without NOC of this Court. Hence, prayed to issue NOC for issuance of passport to the applicant.

3. Learned APP has filed say and resisted the application. It is contended that charge sheet filed against accused for the offence punishable u/s 3 & 7 of Essential Commodities Act. Trial is not yet begin. If permission is granted for issuance of passport, there is strong possibility of accused to leave the jurisdiction which hamper the trial. Hence prayed that application be rejected.

4. Heard the learned Advocate for the applicant and learned APP for state.

5. On perusal or record, it appears that charge sheet No. 127/2022 filed on 09.05.2022 against accused No.1 to 3. Accused No.1/ applicant Khushal @ Rahul Rameshlal Waswani is released on PR Bond of Rs.15,000/- with cash security in like amount. It appears from record that applicant is a businessman. According to applicant, he needs to travel abroad for business purpose. He undertakes that he will not flee from the justice and attend the Court on each and every date. He also undertakes to abide all the terms and conditions will be imposed by the Court.

6. As per Section 6(f) of Passport Act, 1967, the passport authority shall refuse to issue a passport if proceeding in respect of offence alleged to have been committed by the applicant are pending before the Criminal Court. However, it is settled position of law that applicant has fundamental right to have a passport and same cannot be denied. Further there is a notification issued by ministry of external affairs, New Delhi dated

25.08.1993 - GSR 570 (E) -- In exercise of powers conferred by Section 22(a) of the Passport Act, 1967 and in supersession of the notification dated 14.04.1976, the Central Government being of the opinion that it is necessary in public interest to do so, hereby exempt citizens of India against whom proceeding in respect of an offence alleged to have been committed by them are pending before Criminal Court in India and who produce orders from the Court concerned permitting them to depart from India from the operation of the provision of Sec.6(f) of the said Act., subject to following conditions.:- a) The passport should be issued to every citizens, shall be issued - i) for the period specified in order of the Court referred to above, if the Court specify the period for which the passport has to be issued, 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 of one year-----

7. Considering reason mentioned in application, stage of SCC No. 450/2022 and above notification, I am inclined to grant NOC to the applicant for issuance of passport for the period of 5 years. Hence, I pass the following order. :-

ORDER

1. Application is partly allowed.
2. This Court consents the Passport authority for issuance of passport in favour of applicant Khushal @ Rahul Rameshlal Waswani for the period of five years.
3. The applicant shall take prior permission of the Court for travel abroad.

Nagpur.
Dt.10.03.2023

sd/-
(**S.T.Dande**)
Chief Judicial Magistrate,
Nagpur.