

S.C.C. No.10594/2017
State -vs- Arvind & oth.

Order on Exh.16
(Passed on 12th day of **October, 2023**)

Read application and say of learned A.P.P. Heard learned counsel Shri. P.S. Kaware appearing for accused No.2.

2] Accused No.2 Rupesh Atmaram Soni (hereinafter called as “the applicant”) has prayed for grant of N.O.C. to prepare the Passport for the period of 10 years and permission to go to abroad. According to applicant, he is doing the private job and residing at Nagpur. The applicant wants to grant permission (N.O.C.) to prepare passport for the period of 10 years and permission to go to Dubai (U.E.A.) for the period from 20.10.2023 to 26.10.2023 as a tourist for the short period (7 days). He is ready to abide by the conditions imposed by the Court. Hence, he prayed for grant of permission to prepare Passport and permission to go to Dubai (U.E.A.).

3] The learned A.P.P. objected the application on the ground that if the accused is permitted to obtain passport, he will be absconded and it will be very difficult to bring him back to India. She lastly prayed for rejection of application.

4] Perusal of the record shows that the applicant is accused No.2 in the present case which is under sections 4 and 5 of the Maharashtra Prevention of Gambling Act and these offences are triable by this Court and the case is pending before this Court for appearance.

5] It is pertinent to note that pendency of criminal case against the applicant is no ground for refusing permission to obtain

passport. Hence, in the light of ratio laid down by the Hon'ble Bombay High Court in the case of *Deepak Dwarkasingh Chhabria Vs. Union of India and another, reported in 1996(2) MHLJ 877*, this court is empowered to permit the applicant to obtain passport. Considering this ratio, nature of offences and the grounds mentioned in the application, the applicant is entitled for grant of N.O.C. to prepare passport and permission to go to Dubai (U.E.A.) as prayed. Therefore, the present application deserves to be allowed. Hence, the following order :-

ORDER

- 1] Application is allowed.
- 2] No objection is granted for preparation of passport to the applicant/accused No.2 Rupesh Atmaram Soni, subject to following conditions :-
 - a) he shall inform in advance about applying for Visa and details of his tour.
 - b) meanwhile he shall regularly attend the Court.
 - c) he shall undertake that his learned Advocate shall attend the matter and if required shall conduct the same, in absence of the accused and shall not dispute the identity of the accused.
 - d) applicant to submit the true copy of his passport and Visa and submit his tour programme before he proceed to leave the country, in this Court.
 - e) the applicant shall submit the information regarding his contact number and residential address where he is residing abroad.
 - f) compliance of the conditions of this order by the applicant is the condition precedent for giving effect to this order.

- h) applicant shall submit on record all necessary verified documents which are required for traveling abroad.

Date: 12.10.2023.

(U.P. Kulkarni)
Addl. Chief Judicial Magistrate,
Nagpur.