

SCC No. 1233/2023
State Vs. Ashapak Sheikh
(CNR No. MHNG090023112020)

ORDER BELOW EXH.36

01] This application is filed by **accused No. 5 namely, Ashif Rehemtulla Shaikh** for obtaining no-objection of this Court for renewal of passport.

02] The applicant submitted that he requires no objection from this court to renew a passport to visit a place abroad from India. However, due to the pendency of the present matter, the passport authority required a no-objection of this court. The applicant has shown readiness and willingness to abide by conditions if any imposed by this court.

03] The application is objected to by the Ld. APP on the ground that, there is possibility that, accused may abscond beyond jurisdiction. Hence, it is prayed to reject the application.

04] Heard both sides. Perused records and proceedings of the present case. The accused namely, **Ashif Rehemtulla Shaikh** is in association with other accused persons alleged to have committed an offence punishable under Section 4 and 5 of the Prevention of Gambling Act and Section 109 of IPC. On perusal of the record reveals that accused appeared in the matter and is pending for framing charge against the accused. It will take time to conclude the

matter. Till then applicants cannot be precluded to visit abroad for personal reason. In these circumstances, at this stage, it would be just and proper to grant no objection to renew a passport as prayed.

05] Because of the pendency of the present case, in the light of the Notification dated 25th August 1993 and circular dated 21st August 2014, the accused No. 5 namely, **Ashif Rehemtulla Shaikh**, requires permission from this Court to obtain the passport.

06] As far as objections raised by the Ld. APP is a concern, that can be cured by putting appropriate conditions on the accused No. 5 namely, **Ashif Rehemtulla Shaikh** It is submitted by him that, he is ready to abide by all conditions imposed by this Court. Considering the overall record and law laid down by the Hon'ble Bombay High Court in the case of *Shyam Dwarkadas Chabria V/s Regional Passport officer*¹, it would be just and proper to pass the following order:

ORDER

- A) The application is hereby allowed.
- B) **No-objection is hereby granted** to the **accused No. 5 namely, Ashif Rehemtulla Shaikh** for renewal of passport for two months (i.e. for period since 11.09.2023 to 30.10.2023, subject to conditions mentioned in the Notification dated 25th August 1993 and on the following additional conditions:

¹ 2000 Cri. L.J. 2942.

- 1) He shall execute a P.R. Bond of ₹ 50,000/- along with one solvent surety of like amount as a security for returning to India as and when called by this Court for the purpose of trial;
- 2) Before leaving from India he shall inform this Court by way of affidavit about his overall plan to travel outside India along with dates;
- 3) He shall file an affidavit of his learned Advocate showing readiness and willingness to conduct the matter in his absence.

Date:- 18.08.2023
Place : Saoner.

(Santosh R. Bharad)
Judicial Magistrate, First Class,
Saoner