

ORDER BELOW EXH. 23

This is the application filed by accused Rajshekhar Sidramappa Birajdar for Court's permission for renewal of his passport. It is contended that accused is permanent resident of Pune and he had filed application with Regional passport Office, Pune for getting passport. Accordingly, passport No. A-2679091 was issued in the name of accused on 2.03.1997. The said passport was valid up to 11.03.2007. The accused had filed application on 14.01.2021 with Regional Passport Office, Pune, for renewal of his passport, that time he came to know that if any crime is registered against such applicant, passport could not be renewed without permission of the Court, hence accused had filed this application. It is further contended that married daughter of accused is residing at Hongkong and accused had not met his daughter since last four years, therefore, it is necessary for him to get renewed his passport. Lastly, it is contended that applicant had informed police about the fact that his passport was lost and letter sent by police in response to said information is annexed to this application. With the help of those contentions accused has prayed to allow the application.

2. Learned APP has resisted the application contending that alleged offence committed by accused is of serious nature, hence application should be rejected, however, necessary orders may be passed according to the Passport Act.

3. I have heard applicant's advocate Mr. B R Dhokane and learned APP Mr. Hande at length. Advocate for the accused has cited case between ***Sushil Kumar V/s. State of Punjab and others, in CRM-M No. 14955/2020 (O&M) dated 06.07.2020.***

In the said case, the Hon'ble Punjab and Harayana High Court is pleased to observe that,

"However, it is well settled law that the petitioner being a citizen of India is entitled to apply a passport or for re-issuance of a passport, which would be allowed to him subject to him complying with all formalities as required under the Rules. The dependency of the proceedings before the Courts would not be a hindrance to him applying for renewal/ re-issue of a passport. However, the petitioner would not be permitted to travel abroad without the permission of the courts."

It is further observed that,

"Counsel for the petitioner has also stated that the petitioner undertakes that he will not leave the country without prior permission of the Court. Therefore, the instant petition is disposed of by giving permission to the petitioner to apply for a passport to respondent No.3 subject to the condition that petitioner shall furnish an undertaking before the trial Court that he will not leave the country without prior permission of the Court within a period of 7 working days from today. The respondent No.3 is directed to consider the application of the petitioner for issuance of a passport and decide the same within a period of one month from the date of receipt of certified copy of this order."

4. The applicant's advocate also filed The Gazette of India dated 25.08.1993, which shows that ,

"Notification of the Government of India in the Ministry of External Affairs No. G.S.R. 298(E), dated the 14th April, 1976, the Central government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them re pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act."

5. The applicant's advocate has also placed reliance on the case between **Ashok Roopchand Jain V/s. The State of Maharashtra & ors, in Criminal Application No. 1/2019, decided on 04.03.2020**, in which the Hon'ble Bombay High Court is pleased to observe that,

"The Apex Court in the case of Maneka Gandhi V/s. Union of India [(1978) 1 SCC 248, held that the right to travel for the purpose of business and service is a part of fundamental right, subject to reasonable restrictions, which are imposed by the Act and by the Court."

6. As the applicant has contended that his daughter is residing at Hongkong and he has not met his daughter for four years, in view of the observations of the Hon'ble Punjab and Harayana High Court in the case between **Sushil Kumar** (Supra) and in the light of observations of the Hon'ble Bombay High Court in case of **Ashok Roopchand Jain** (Supra), I find that this application can be allowed subject to certain conditions and hence, I proceed to pass the following order :

O R D E R

1. Application (exh.23) is allowed.
2. Permission is granted for renewal of the passport to the accused applicant. However, considering serious nature of the offence allegedly committed by accused applicant, he is directed that he should not leave India without prior permission of this Court.
3. Inform concerned Police Station accordingly.

Dt. : 25.08.2021

(K. P. Nandedkar)
Additional Sessions Judge, Pune.

I affirm that the contents of this P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno	:	Smt. Mohini P. Rahurkar, Stenographer Gr.I
Court Name	:	Shri K. P. Nandedkar Additional Sessions Judge, Pune.
Date of Decision	:	25.08.2021
Judgment signed by Presiding Officer on	:	26.08.2021
Judgment PDF and Uploaded on	:	26.08.2021