

ORDER BELOW EXH. 33 IN
SESSIONS CASE NO. 688/2015

1. This is the application filed by accused/ applicant Virendra Rajshekar Birajdar for Court's permission for renewal of his passport bearing no. K-1795121. 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. K-1795121 was issued in the name of accused/applicant on 16.12.2011. The said passport is valid up to 15.12.2021. The accused/applicant had filed application for renewal of his passport with Passport Office, Pune on 17.09.2021, 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 contended that renewal of passport is very much necessary. It is contended that accused/applicant has annexed xerox copy of this passport this application. With the help of those contentions accused has prayed to allow the application.

2. Learned APP Mr. Hande has resisted the application by filing this reply on said application contending that passport of accused/applicant is valid till 15.12.2021. Hence, accused can file application for permission of renewal of passport after said validity period. Hence, according to accused/applicant the application is necessary to be rejected. Further, it is contended that alleged offence is serious nature Hence, application is not maintainable with the help of those contentions learned APP has prayed to reject the application. I have heard applicants adv. Mr. Dhokane and learned APP Mr. Hande at length. Advocate for applicant has placed reliance on the 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."

3. 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."

4. 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."

5. As contended by accused/applicant validity of his passport is up to 15.12.2021 and it is necessary for him get renewed his passport, in view of the observations of the Hon'ble Punjab and Harayana High Court in the case between **Sushil Kumar Vs. State of Panjab and others** (cite supra) and in the light of observations of the Hon'ble Bombay High Court in the case of **Ashok Roopchand Jain** (cited 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.33) 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.

Sd/-xxx

(K. P. Nandedkar)

Additional Sessions Judge, Pune.

Dt. : 07.10.2021

Certificate

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

Name of Steno : Shri. P.D. Mane,
Stenographer Gr.III

Court Name : Shri K. P. Nandedkar
Additional Sessions Judge,
Pune.

Date of Decision : 07.10.2021

Judgment signed by Presiding
Officer on : 08.10.2021

Judgment PDF and Uploaded on : 09.10.2021