

MHRG010001582023



Sessions Case/11/2023

**State of Maharashtra
Vs.
Nikhil Namdeo Shelke and 3**

COMMON ORDER BELOW EXHIBIT 38 & 42

Exh.38 is an application by the accused No.1 Nikhil Namdeo Shelke and Exh.42 is an application by his real brother accused No.4 Ashish Namdeo Shelke for permission of this Court for renewal of their passport. Perused the say filed by the I.O. cum A.P.P. vide Exh.43 & 44. Both the accused alongwith other family members are chargesheeted for the offence p/u/s 304-B, 306 r/w 34 of IPC vide Cr.No.114/2022 of Alibag Police Station. Perused the chargesheet and the entire papers submitted therewith.

2] Heard Mr. P. S. Patil the ld. Counsel for both the accused No.1 & 4 supra as per the applications Exh.38 & 42 and the ld.A.P.P. Mr. Bahiram as per say Exh.43 & 44.

3] In such circumstances of the case first of all the offences alleged are serious i.e. p/u/s 304-B, 306 r/w 34 of IPC punishable with imprisonment of not less than 07 years but upto L.I. and for 306 IPC upto 10 years. More so the deceased was the wife of accused No.1 Nikhil Namdeo Shelke and rest of the accused are her in laws. Further all the accused No.1 to 4 have been enlarged on bail as per the order of the Hon'ble High Court in Anticipatory

Bail Application No.2082/2022 dated 08-09-2022 and Anticipatory Bail Application No.1600/2022 dated 16-12-2022 – copies produced herein and perused by the Court to confirm. Most important to note that in both the orders granting anticipatory bail there is no restriction imposed on any of the accused about leaving India or depositing their passports. Hence in such circumstances the duty is cast upon this Court to ensure and secure the presence of the accused at the trial as well as strike a balance with their fundamental right of liberty – travel as such.

4] In the most recent judgment of **Mahesh Kumar Agarwal Vs. Union of India, 2025 INSC 1476** the Hon'ble Apex Court has dealt with the provisions of the Passports Act and reiterating the case of **Vangala Kasturi Rangacharlyu Vs. C.B.I. 2021 SCC On Line SC 3549**; has drawn a clear distinction between the accused “*facing trial in a criminal court*”, and a person who has been “*convicted and is pursuing an appeal*” and how the same can impact the issuance of a passport/renewal of a passport.

5] The right to travel abroad and the right to hold a passports are facets of the right to personal liberty under article 21 of the Constitution Of India. Any restriction on that right must be fair, just and reasonable and must bear a rational nexus with a legitimate purpose as has been held in the case of **Maneka Gandhi Vs. Union of India (1978) 1 SCC 248**; reiterated in **Union of India Vs. Naveen Jindal (2004) 2 SCC 510**.

6] Section 6(2)(f) speaks of “*proceedings in respect of an offence alleged to have been committed*” and is directed at the

pre conviction stage; which is exactly so in the present case. The legitimate purpose of Section 6(2)(f) and 10(3)(e) is to ensure that the accused facing criminal proceedings remains amenable to the jurisdiction of the Criminal Court. Whether a person who is on bail or facing trial may actually leave the country is a matter for the criminal Court which can grant or withhold permission, imposed conditions insists on undertakings or refuse leave altogether.

7] Further the Central Government Notification GSR 570 (E) dated 25-08-1993 u/s 22 of the Passports Act is also noteworthy and it does two things – first it recognizes that persons facing criminal proceedings are not to be treated as absolutely disentitled to a passport. Secondly it structures the exercise of the exemption by time the validity and use of the passport to the terms of the Courts order. Thus where the Court specifies a period for which the passport is to be issued/renewed the passport authority must honour that period and where the Court does not stipulate any period, the notification provides default rules, including issuance for a shorter period, ordinarily one year, in appropriate cases.

8] Also it is settled law that every accused is innocent if he unless proved guilty and refusal of passport can be only in the case where the applicant accused is convicted during the period of 05 years immediately proceeding the date of application; for an offence involving moral turpitude and sentenced for imprisonment of not less than 02 years; which is not so in the present case. Hence there is no technical bar or legal impediment.

Hence this application for renewal can be allowed on using judicial discretion by imposing stringent conditions and recall of permission if violation calls for interference.

9] To part with accused No.1 Nikhil Namdeo Shelke is serving as Deputy Manager in the R.C.F. Thal – Alibag Raigad while as his real brother accused No.4 Ashish Namdeo Shelke is working as Marketing Manager in Amazon India Development Center. Both are permanent resident of Alibag-Raigad and have landed properties as well and their families and permanent abode and much so have no criminal antecedents and also the Hon'ble High Court had enlarged them on anticipatory bail and since then there is no single report of any violation of the earlier bail conditions so imposed and no other report of indulging in any anti social activity or another offence etc.

10] Hence and for these reasons me seems that the presence of the accused No.1 & 4 for this trial – ensuring that they cannot flee out of India and balancing their Constitutional right of liberty – to hold passport and to travel abroad these applications Exh.38 & 42 are hereby conditionally granted as per order infra -

ORDER

1. The application Exh.38 by accused No.1 Nikhil Namdeo Shelke, and application Exh.42 by the accused No.4 Ashish Namdeo Shelke - facing trial vide Sessions Case No.11/2023 from Cr.No.114/2022 u/s 304-B, 306 r/w 34 of the IPC of the Alibag Police Station; are hereby conditionally allowed as follows -

- a. This Court hereby grants no objection permission for the limited purpose of renewal of the passports of both these accused No.1 & 4 supra, upon furnishing indemnity bond of Rs.50,000/- (Rs.Fifty Thousand only) each per accused and two sureties each per accused in the like amount and both the accused shall furnish one local surety each.
 - b. The said period of renewal of the passport is hereby granted only for a period of 03 years from today.
 - c. On receiving the renewed passports the accused No.1 & 4 supra shall immediately deposit the renewed passports in this Court.
 - d. They shall furnish an undertaking that they will not apply and obtain any Visa to travel out side India; after renewal of the passports; without prior permission of this Court.
2. Violation of any single condition of this order may call for revocation of bail and revocation of renewal permission as per law.
 3. Copy of this order be sent to the Superintendent of Police Alibag-Raigad; Regional Passport Office Alibag-Raigad and Ministry of External Affairs; for information and needful.

Alibag
Date :- 06.01.2026.

(Smt.Sunita Tiwari)
Additional Sessions Judge-2,
Raigad-Alibag.
MHRG01

CERTIFICATE.

I affirm that the contents of the PDF file Judgment are in verbatim as per original Judgment.

Name of Steno	: Mr. L. R. Raut (Steno) (Gr-2)
Name of Court	: District Judge-2, Raigad-Alibag.
Date of Order	: 06.01.2026.
Order signed by PO on	: 06.01.2026.
Order uploaded on	: 06.01.2026.