

Sessions Case No.73/2016
State Vs. Jagdish & Ors.

ORDER BELOW EXH.18.

01. This is an application, filed for granting permission, to renew the passport.

02. The case of the accused No.1 Jagdish in brief is that, the prosecution has filed charge sheet for offences p.u.s 302, 201 r/w 34 of IPC, against him. He is came to be released on bail. He is businessman. He has passport No.H2924766. It's period is came to be completed. It is requisite to renew the said passport. Accordingly, he applied for renewal of said passport with Government of India, Ministry of External Affairs. The said proceeding is come in Alibag police station for verification. The police asked him to bring permission of the Court for renewal of the passport, as present case is pending against him. If the said passport is not renewed, he will face difficulties. If the said passport is renewed, no prejudice will cause to the prosecution. The copies of passport and renewal application are filed on record.

03. Lastly, he claimed application as prayed may be allowed.

04. The prosecution by filing say at Exh.20, denied all allegations and contested the application on the grounds that, it is vague one and not legal. Though, the Hon'ble High Court pleased to release the accused No.1, the offences against him are very serious and if permission is granted, there is possibility of prolonging the hearing of the case.

05. Lastly, the prosecution claimed for dismissal of the application.

06. Heard. Perused record. Following points arise for determination and my findings thereon for the reasons recorded thereunder are as follows:

Points

Findings.

01. Whether the accused No.1 Jagdish is entitled to get permission, as claimed ?

No.

02. What order?

As per final order.

REASONS.

Points No.1 & 2 :-

07. In support of the application, neither the accused No.1 and in support of the say, nor the prosecution have produced on record any affidavit.

08. After hearing arguments of both the learned advocates, I have gone through the record and legal position in consonance with the same.

09. It reveals that, on complaint of Shri.Sunil Suresh Kasar, r/o Pangloli, dated 01/11/2015, CR No.I.209/2015 p.u.s.302 and 201 r/w 34 of IPC, is came to be registered with Roha police station. After completion of investigation, the said police station has forwarded the chargesheet against the accused. There are

allegations against the accused that, on 01/01/2015, at about 11.30 a.m., the accused No.1 Jagdish called victim Shri.Kantilal Khimji Jain, in his office and on the grounds of disputes on previous transactions, killed him by giving him blows of hammer over his head, with the help of accused No.2, brought his dead body on dry land known as Chincheche Pani, at Tambdi, burnt him by pouring petrol with the aid of tyre of the vehicle and thus, committed offences of murder and disappearance of it's evidence.

10. It is true, on 08/11/2015, the accused No.1 Jagdish is came to be arrested and as per order of Hon'ble High Court, in bail application No.1579/2016, dated 10/08/2016, he came to be released on bail. It is also true that, there is no condition in said bail order about deposit of the passport by accused No.1 Jagdish or restriction not to leave any place, as is rightly submitted by advocate of accused No.1 and not controverted by Spl.P.P..

11. However, while granting the said bail, Hon'ble High Court directed the accused to co-operate, attend the case on dates fixed, not to tamper prosecution evidence and not to commit an offence similar to the offence of which, he is suspected to be committed. Special P.P. thus, rightly submitted that, though there is no specific direction about deposit of passport or not to go from any place, it is for the accused to assist the prosecution for disposal of the case, on merit.

12. The accused has not clarified under which provision, he has made the application, as is rightly objected and submitted by the prosecution.

13. The accused is only claiming permission to grant the renewal of the passport. He has not clarified of which nature, of which period, for which State, for which period, he wants to go abroad, by getting renewed the passport and there is nothing on record to show which provision he is going to make, in his absence, about proceeding further the case. The Spl.P.P. thus, rightly objected and submitted that, the application is vague one and it cannot be granted in such serious offence.

14. The accused has produced on record copy of passport which appears to be issued as on 13/02/2009 and ends as on 12/02/2019. The Spl.P.P. thus, rightly submitted that, at the time of issuance of said passport, the offences chargesheeted were not registered against the accused.

15. The Spl.P.P. by relying on copy of passport application form submitted by the accused also rightly submitted that, the accused is trying to suppress pendency of such serious criminal proceeding against him, as he on affirmation, submitted in said application that, he has not been charged with any criminal proceeding, nor is there any arrest or warrant or summons pending against him.

16. Advocate of the accused tried to submit that, the same being online format and it is not filled by the accused, it was the duty of the accused to clarify the pendency of such serious sessions case in said application and make it's disclosure in the application. In absence of it, it cannot be said that, the accused has come in

Court with clean hands and is trying to renew the passport by putting forth all the relevant material information before the Passport Authorities.

17. It appears that, on verification, when the police found pendency of such serious criminal case, the accused filed present application. It finds support as the application for renewal of passport is dated 09/01/2019, the mail of the police for verification is dated 10/01/2019 and then, on 15/01/2019, the accused has submitted the present application. The Spl.P.P. thus, rightly submitted that, the grant of permission on such vague application, will be misused.

18. Considering facts, circumstances, evidence on record and legal position discussed above, I come to the conclusion that, the accused No.1 – Jagdish is not entitled to seek vague permission of renewal of passport. Accordingly, point No.1 answered “ in the negative” and I pass the following order :-

ORDER

Application Exh.18, for grant of permission, to renew passport, is dismissed.

Alibag,
Date :- 30/01/2019.

(R.G.Malashetti)
Addl. Sessions Judge-3,
Raigad-Alibag.