

MHRG170015212024 	Presented on : 26/07/2024 Registered on : 26/07/2024 Decided on : 15/06/2026 Duration : 01Y 10M 20D
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Part “ A ”

	IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE, AT PANVEL – RAIGAD Present : Santosh R. Chavan, Addl. Sessions Judge (15th day of June 2026) Sessions Case No. 74/2024 Exh. No. 22/A Khandeshwar Police Station FIR No. 42/2023
PROSECUTION	State of Maharashtra Through Khandeshwar Police Station.
REPRESENTED BY	Learned Addl. P.P.Adv. Shri. A.S. Thakur
ACCUSED	Pappu @ Shafiul Inol Ahmad Age : 24 yrs, Occupation : Labour R/at : Jaya Bhagat Building, Room No. F2, Near Ganesh Temple, Naupada Gaon, Sector 22, Kamothe, Tal. Panvel, District- Raigad. Original R/at: Gram Chowki Kaliya, Suktogram, District- Narail, Bangladesh.
REPRESENTED BY	Adv. Shri. Mahesh Gunjal for accused

Part “ B”

Date of Offence	01/05/2021 to 23/02/2023
Date Of FIR	23/02/2023
Date of Charge sheet	08/04/2024
Date of Framing of Charge	18/07/2025
Date of commencement of evidence	17/12/2025
Date on which judgment is reserved	---
Date of the Judgment	15/06/2026
Date of the Sentencing Order, if any	15/06/2026

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on bail	Offence charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1	Pappu Shafiul Ahmad @	1/2/2024	Under Trial prisoner	Offence p/u/section 14-A of the Foreigners Act, 1946 and Rule 6 of the Passport (Entry Into India) Rules 1950	Convicted under Rule 6 of the Passport (Entry into India) Rules 1950	Simple imprisonment for Three years for offence punishable under Rule 6 of the Passport (Entry into India) Rules 1950.	02 years, 04 months, and 14 Days

Part 'C'

LIST OF PROSECUTION/ DEFENCE /COURT WITNESSES

A. Prosecution

RANK	NAME	EXH.	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Vaishali Ashok Galande	14	Informant
PW2	Suraj Shivaji Raut	18	Investigating Officer

B. Defence Witnesses, if any

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	Nil.	Nil.

C. Court Witnesses, if any

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Nil.	Nil.

LIST OF PROSECUTION/ DEFENCE /COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
1	P-15/PW1	Complaint
2	P-19/PW2	Arrest Panchanama

B. Defence

Sr. No.	Exhibit Number	Description
1	----	-----

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	3	Charge.
2	21	Statement under Section 313 of the Cr.P.C. of accused

D. Material objects :

Sr.No.	Material Object Number	Description
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JUDGMENT

(Delivered on 15/06/2026)

01. Accused is tried for the offences punishable under Section 14-A of the Foreigners Act, 1946 and Rule 6 of the Passport (Entry Into India) Rules 1950.

02. **Prosecution's case in nutshell is as under: -**

The Informant Police Inspector (Crime) Vaishali Ashok Galande of Khandeshwar police station was on day shift duty on 17/11/2022. On the said day Asmira Khatun Omar Farukh Byapari

came to police station and informed to the informant that, she had given complaint regarding murder of her husband Omar Farukh Byapari. In the said complaint, Pappu Ahmed is suspected accused. Accordingly, after recording statement, PSI Kiran Wagh registered Crime No. 290/2022 under Section 302 of IPC on 18/11/2022 with Khandeshwar Police Station. Informant received documents of the said crime for further investigation. After completion of investigation of CR No. 290/2022 charge-sheet was filed. While recording statement on 18/11/2022 witness Rehana Ashraf Shaikh stated that, her husband was working on construction site. Her husband's mobile phone was lost. Hence, her husband was using mobile phone of Pappu @ Shafiul Ahmed. Therefore, she was talking with Pappu@ Shafiul Ahmed. He was talking in Bangali language on phone. When, he was asked about his native, he stated that his native is Gram Chowki Kaliya, Suktogram, Bangladesh. After coming into India, he was staying in Gujrat. On 01/05/2021, he got prepared Aadhar Card and staying in India. On 19/02/2023 witness Rehana Ashraf Shaikh produced photo copy of Temporary National ID Card No. 8705039355 of Pappu @ Shafiul Ahmed issued by Government of the People's Republic of Bangladesh and certificate of Primary Education Division of Bangladesh. Pappu suppressed that he is Bangladeshi National and provided false information that, he is presently residing at Room No. F2, Jaya Bhagat Building, near Ganesh Mandir, Naupada village, Sector 22, Kamothe and original resident of Ahmadabad Gujarat. The accused Pappu @ Pappu @ Shafiul being Bangladeshi National had crossed the border and entered

into India without any passport and visa. Therefore, the informant lodged report against the accused with Khandeshwar Police Station. The crime was registered vide C.R. No. 42/2023 for the offences punishable under Rule 3(a) read with 6 of the Passport (Entry into India) Rules 1950 and under Section 14-A of Foreigners Act, 1946.

03. The investigation of C.R.No.42/2023 was conducted by PSI Suraj Shivaji Raut. During investigation it was revealed that, Khandeshwar Police Station CR No. 290/2022 for offence punishable under section 302 of IPC was pending against the accused. Investigating officer recorded the statement of witnesses. Accused was arrested under panchnama. After completion of investigation, the Investigation Officer submitted charge-sheet before Ld. J.M.F.C, Panvel against accused. As the offence punishable under Section 14-A of Foreigners Act is exclusively triable by Court of Sessions, the Learned Magistrate committed the case to the Court of Sessions.

04. My learned predecessor framed charges at Exh. 3 against accused for the offences punishable under Section 14-A of the Foreigners Act, 1946 and Rule 6 of the Passport (Entry into India) Rules 1950. Accused pleaded not guilty and claimed to be tried.

05. Prosecution has examined 2 witnesses. Statement of accused under section 313 of the Code of Criminal Procedure, 1973 is recorded at Exh 21. Defence of the accused is of total denial.

06. Heard Addl. P.P. Shri. A. S. Thakur for the prosecution and Ld. Adv. Mahesh Gunjal for accused. Following points arise for my determination and my findings on each of them with reason thereon are as under:

SR. NO.	POINTS	FINDINGS
1.	Whether prosecution proves that, before 18/11/2022 accused being Bangladeshi National illegally entered in India through restricted area without passport and visa and thereby committed an offence punishable under section 14-A of the Foreigners Act, 1946 ?	...No
2.	Whether prosecution proves that, accused being Bangladeshi National entered into India without possessing valid passport in contravention of Section 3 (a) of The Passport (Entry Into India) Rules, 1950 and thereby committed an offence punishable under Rule 6?	...Yes
3.	What order ?	Accused is convicted

REASONS

07. In order to bring home the guilt of the accused prosecution has examined two witnesses.

08. Learned Addl. P.P. Shri. A.S. Thakur for the State submitted that, the evidence on record is sufficient to prove guilt of the accused. The evidence of prosecution witnesses is reliable. The accused failed to produce travel documents or document showing his Indian citizenship. The accused being Bangladeshi National illegally entered into India through restricted area and stayed in India without any valid travel documents.

09. Per contra, Learned Advocate Shri. Mahesh Gunjal for accused argued that, accused is poor and doing labour work. Section 14-A of the Foreigners Act is not applicable. Prosecution failed to prove that accused is Bangladeshi National. The accused is entitled for acquittal.

POINT Nos. 1 AND 2 :-

I consider point Nos. 1 and 2 together for sake of convenience and to avoid repetition.

10. The informant PW1 Smt. Vaishali Ashok Galande deposed that, on 23/02/2022 she was attached to Khandeshwar police Station as a Police Inspector. Present accused was involved in CR No. 290/2022. The investigation of the crime was with her. On 30/01/2023 she submitted charge-sheet against present accused. During investigation of the said crime, while recording statement of witness Rehana Ashraf Shaikh it was revealed that, Rehana was talking with accused on phone and accused was talking in Bangali language. Accused told to Rehana that he is originally from Bangladesh. It was also revealed that, previously

he was residing at Gujrat and thereafter, he came to Naupada village, Kamothe. Rehana produced accused's identity card issued by Bangladesh and affidavit made before Primary Education Division of Bangladesh.

11. During investigation of CR No.290/2022 it was revealed that accused is Bangladeshi immigrant and he is illegally staying in India. Prosecution also examined investigating officer Suraj Raut PW2. He deposed that, he recorded statement of witnesses. After completion of investigation submitted charge-sheet.

12. On the analysis of prosecution evidence, I find that, accused was involved in CR No.290/2022 for offence punishable under Section 302 of IPC. While recording statement of witness Rehana Shaikh, it was revealed to present informant who was investigating in CR No. 290/2022 that, accused is Bangladeshi National and witness Rehana produced copy of National ID Card of accused issued by Government of Bangladesh and certificate of Primary Education Division, Bangladesh. Accused failed to produce passport, visa or any other document showing Indian Nationality. The prosecution has proved that accused is not Indian Citizen. The prosecution has discharged its initial burden. As per Section 9 of Foreigners Act, 1946 burden shifts upon the accused to show that he is Indian Citizen. However, said burden is not discharged by the accused.

13. So far as the charge levelled against accused under Section 14-A of The Foreigners Act, there is nothing on record to

show that the accused is found in restricted area and he entered into India through restricted area. Therefore, ingredients of that section are not proved by the prosecution. However, I find that accused is Bangladeshi National. He entered into India without passport in contravention of Rule 3(a) of The Passport (Entry Into India) Rules, 1950 and he is guilty under Rule 6. Hence, I answer point No. 1 in the negative and point No. 2 in the affirmative.

POINT NO. 3 :-

14. In view of the above findings, accused is liable to be acquitted for the offence punishable under Section 14-A of the Foreigners Act, 1946, but liable to be convicted under Rule 6 of the Passport (Entry Into India) Rules 1950. It is necessary to hear prosecution and accused on point of sentence.

15. Heard the accused, Ld. Advocate on behalf of accused and Additional Public Prosecutor on the point of sentence.

16. Accused and his advocate submitted that accused is behind the bar for last 02 years, 04 months 14 days. He is poor man and doing labour work. Hence, leniency may be shown to him and he may be sentenced to a term which he has already undergone and set off may be given to him.

17. Per contra, the learned APP submitted that accused has intentionally and knowingly entered into India without any valid travel documents. He is also accused in CR. No. 290/2022 for offence punishable under Section 302 of IPC. Therefore, leniency

cannot be shown to him and be sentenced to maximum punishment.

18. The accused was arrested on 01/02/2024. The total period of detention undergone by accused during investigation, inquiry and trial is 02 years, 04 months 14 days. Punishment under Rule 6 of Passport (Entry into India) Rules 1950 is imprisonment which may extend to five years or fine which may extend to fifty thousand rupees or both. The accused is young boy aged 24 years. Due to poverty in his own country, he came into India for livelihood. However, he is also accused in CR. No. 290/2022 for offence punishable under Section 302 of IPC. Considering this aspect and age of accused if he is sentenced to simple imprisonment for Three years, would meet the end of justice. The accused is entitled for the benefit of set off for period of detention already undergone as per Section 428 of the Code of Criminal Procedure, 1973. Khandeswhar Police Station CR. No. 290/2022 for the offence punishable under Section 302 of IPC is pending against accused, his presence is required in that case. Hence, I am not passing order directing deporting the accused to Bangladesh. As a result, I pass following order-

ORDER

1.	Accused Pappu @ Shafiul Inol Ahmad is hereby acquitted for the offence punishable under section 14-A of the Foreigners Act, 1946 vide Section 235 (1) of the Code of Criminal Procedure, 1973.
2.	Accused Pappu @ Shafiul Inol Ahmad is hereby convicted of the offence punishable under Rule 6 of

	Passport (Entry into India) Rules 1950 vide Section 235 (2) of the Code of Criminal Procedure, 1973 and sentenced to suffer simple imprisonment for Three years.
3.	Accused is in custody from 01/02/2024. The period of detention undergone by the accused during the investigation, inquiry or trial of the case till the date of conviction shall be set off under Section 428 of the Code of Criminal Procedure, 1973, against the above term of imprisonment imposed on him.
4.	Copy of Judgment be forwarded to District Magistrate Raigad-Alibag as per Section 365 of the Code of Criminal Procedure, 1973.
5.	Copy of Judgment be forwarded to officer in charge of Khandeswar Police Station.
6.	Copy of this judgment be given to accused free of costs.
	(Dictated and pronounced in open court)

Sd/-

Panvel.
Date: 15/06/2026

(Santosh R. Chavan)
Addl. Sessions Judge,
Panvel- Raigad.