

Criminal Misc. Application No.143/2022

MHKO170009692022

**Prasad Vijay Harshe****Vs.****State of Maharashtra****ORDER PASSED BELOW EXH.1 .**

1. This is an application filed by accused Prasad Vijay Harshe for seeking permission for making an application for getting New passport. The application is supported by his affidavit. His submission is that, he has applied for passport . That, C.R.No.74/2022 of Kodoli Police station, for offence punishable under section 324, 337, 143, 147, 148, 149 is pending against accused. Till today in the above said crime chargesheet is not filed by police.
2. On this application say of learned APP and I.O. is called. She filed her say and prayed for rejection of this application as it is not tenable. I.O. submitted say and prayed to pass appropriate orders on the application.
3. Read application. Perused record and heard both sides. In the present application, the applicant is seeking permission for his passport . On perusal of application, say, record of the case, submission of both Counsels, it reveals that, the accused is alleged to have committed offences punishable under Sections 324, 337, 143, 147, 148, 149 of the Indian Penal Code, 1860 and he was released on bail by my predecessor during remand.
4. As per Section 6 (f) of the Passport Act, if the criminal matter is pending in the Court, the Court can give permission to the accused to go abroad. In the present matter chargesheet is not filed against accused. Therefore, the trial is yet not to be started and it could not be concluded in a coming few days.

5. Having heard the rival submissions and considering the reason mention in the application, the liberty of accused to travel aboard which is guaranteed by article 19 of our constitution can not be curtailed. However, the reasonable conditions can be imposed. Further, it is the engraved principle of criminal jurisprudence that, unless and until the accused proved to be guilty he is presumed to be innocent. In such circumstances the denial of permission for passport would be a jolt to his right of freedom which is guaranteed by article 19 as well as article 21 of the Constitution.

6. Considering the record of the case and reasons, applicant is permitted to make application for getting passport. Hence following order is passed .

ORDER

1. The application is allowed.
2. Permission is granted to the applicant to apply for passport from Passport Authority .
3. The applicant shall not leave India without prior permission of the Court from the date of order.
4. Accused shall remain present on every scheduled date and conduct the proceedings on every assigned date of Court for proceedings & accused shall furnish affidavit of undertaking in that effect.

Place: Panhala.
Date: 18.10.2022.

Atul A. Kore,
Judicial Magistrate F.C., Panhala.