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appln3570o26 passport

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.3570 OF 2026
IN
CRIMINAL REVISION APPLICATION NO.270 OF 2023**

Abdul Javed s/o Abdul Khalid.

...Applicant

-VERSUS-

The State of Maharashtra and others.

...Respondents

...

Shri S.S. Jadhavar and Shri P.G. Tambade, Advocates for the applicants.

Shri C.V. Bhadane, APP for the respondent/ State.

Shri R.D. Sanap, Standing Counsel for respondent No.2/ UoI.

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CORAM : SUSHIL M. GHODESWAR, J.

DATE : 21 September 2026

Per Court:-

1. This Criminal Application has been preferred by applicant No.2 in Criminal Revision No.270 of 2023.

2. The revision is filed challenging the impugned judgment and order dated 03.08.2023 passed by the learned Additional Sessions Judge, Bhokar, in Criminal Appeal No.11 of 2021, whereby, the said appeal is dismissed and the judgment

and order dated 31.03.2021 passed by the learned Judicial Magistrate First Class, Bhokar, thereby convicting the accused i.e. applicant along with another under Section 9A of the Maharashtra Animal Preservation Act, 1976 read with the Maharashtra Animal Preservation (Amendment) Act, 2015 and sentencing them to suffer rigorous imprisonment for six months, came to be affirmed. The said revision is filed in the year 2023 and is still pending before this Court.

3. During the pendency of the aforesaid criminal revision, the instant criminal application is filed by the applicant for issuance of directions for having no objection for issuing the passport in favour of the applicant. According to the applicant, as stated earlier, he is convicted under Section 9A of the Maharashtra Animal Preservation Act, 1976 and sentenced to suffer rigorous imprisonment for six months, against which his appeal is also dismissed. The applicant submits that he had applied for issuance of passport to respondent No.2 Authority i.e. the Regional Passport Authority, Regional Passport Office, Nagpur, District Nagpur. The application was submitted to the competent authority through online portal i.e. Passport Seva on

28.07.2026 and the applicant had provided all the information, which was demanded and required for the issuance of passport.

4. According to the applicant, his application for issuance of passport was forwarded for police verification. The police verification report came to be submitted to the passport authority mentioning two cases registered against the applicant i.e. FIR No.24 of 2022 registered at Old City Police Station, Akola and FIR No.245 of 2018 registered at Bhokar Police Station, District Nanded, for the offences punishable under Section 5B of Wild Life Preservation Act. It is submitted that after the receipt of the police report, the passport authority has issued notice dated 06.08.2026 calling upon the applicant to submit his say on the aforesaid police report and also to submit the order of court granting permission for passport. In view of the above, the applicant has approached to this court for issuance of no objection for issuing the passport to the applicant.

5. In pursuance to the offence registered at Old City Police Station, Akola, i.e. FIR No.24 of 2022, the applicant submits that the said offence was punishable under Sections 188 and 269 of Indian Penal Code, and which was registered during

the Covid-19 pandemic and he had come outside the house during the restriction imposed for movement and the police had registered the aforesaid offence. The said offence is not a serious offence. Another FIR No.245 of 2018 registered at Bhokar Police Station is concerned, the applicant submits that the instant criminal revision is arising out of the same crime and he has been convicted under the Maharashtra Animal Preservation Act, 1976 read with the Maharashtra Animal Preservation (Amendment) Act, 2015. The said conviction order is passed in the year 2021 and the appeal is dismissed in 2023, however, the instant criminal revision application is pending before this Court. The applicant further submits that he is interested in attending the Haj Pilgrimage Yatra and as such, he is requiring the passport to observe and attend the Haj Pilgrimage. In that view of the matter, he submits that the issuance of passport to him is very much necessary because until and unless he gets the passport, he is unable to reach at Haj.

6. By making above submissions, the learned advocate Mr. Jadhavar submits that the instant application be allowed by giving no objection for issuing the passport to the applicant.

7. *Per contra*, Mr. Sanap, the learned standing counsel for the Union of India/ Passport Authority submits that the information was required to be submitted by the applicant as regards the pending criminal cases against him. Since there are two police cases reported against him, the permission of the court is necessary, and as such, until and unless this court passes an appropriate order, the authority is unable to issue the passport to the applicant.

8. Mr. Badhane, the learned APP submits that the applicant be put to strict conditions as regards making himself available as and when required by this court.

9. After hearing the learned counsel for the parties, it is found that the applicant is convicted way back in the year 2021 and now he is having intention to attend the Haj Pilgrimage Yatra and as such, he is requiring the passport to perform those rituals. However, the notice dated 06.08.2026 issued by respondent No.2/ Regional Passport Office, Nagpur, discloses that the applicant has been asked to clarify regarding issuance of passport facilities since he has not disclosed the aforesaid offences to the passport authority, which have been revealed by the police

verification report.

10. Section 6 of the Passport Act, 1967 particularly sub-sections 2(e) and 2(f) read as under:-

- “6. *Refusal of passports, travel documents, etc.—*
- (2) *Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—*
- (e) *that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;*
- (f) *that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;”*

11. The aforesaid provision discloses that the passport authority shall refuse to make an endorsement for visiting any foreign country on any one or more grounds which are enumerated in the said section. Clause (e) specifically states that the passport authority shall refuse the passport if the applicant has at any time during the period of five years immediately preceding the date of his application been convicted by the court

of India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years.

12. In pursuance to the aforesaid provision, if the conviction of the applicant is seen, he is sentenced to undergo sentence of six months by the learned Judicial Magistrate First Class, while delivering the judgment and order dated 31.03.2021 in RCC No.13 of 2021. The offence under which he came to be convicted is under Section 9A of the Maharashtra Animal Preservation Act, 1976 read with the Maharashtra Animal Preservation (Amendment) Act, 2015. In view of this, the applicant is not convicted for the offence punishable for the offence of which sentence is more than two years and he is not convicted for the offence involving the moral turpitude.

13. As far as sub-section 2(f) is concerned, as per this clause (f), if the proceedings in respect of an offence alleged to have been committed by the applicant are pending before the criminal court in India, then the authority can refuse to issue passport to such applicant. In respect of this provision, it is admitted fact that the instant criminal revision application is pending before this court and the same is likely to be heard in its

due course. The applicant is having his right to travel which is regarded as a fundamental right by the Hon'ble Supreme Court of this country. The applicant, therefore, cannot be refused to issue the passport in pursuance to the offences committed in pursuance to the conviction imposed upon him, which is admittedly less than two years of the period. However, as regards the provision under Section 6(2)(f), the proceedings are pending before this court, therefore, the applicant can be permitted to have passport by imposing certain conditions upon him.

14. Mr. Sanap, the learned standing counsel for the passport authority also submitted that as per GSR 570(E) notification dated 25.08.1993 issued by the Ministry of External Affairs and the office memorandum dated 10.10.2019, where a criminal case is pending against the applicant, such applicant is required to produce court permission specifying the specific period of issuance of period.

15. In that view of the matter, the permission is granted to the applicant to have the passport for the purpose of attending the Haj Pilgrimage Yatra. The Hon'ble Supreme Court as well as this court in numerous cases have granted the permission or

directed the passport authority to issue the passport in respect of such applicants whose criminal appeals are pending before the court. Since the proceedings are pending before this court, the passport authority cannot refuse issuance of passport to the applicant on the ground of pendency of the criminal revision before this court. As per Section 6(2)(e), the refusal of a passport can only be in case wherein the applicant is convicted during the period of 5 years immediately preceding the date of application for an offence involving the moral turpitude and sentence for imprisonment for not less than two years. However, in the instant case, there is no such hurdle. However, as per Section 6(2)(f), as the instant criminal revision is pending in respect of the conviction imposed upon the applicant, the necessary direction can be issued to the passport authorities for issuing the passport to the applicant.

16. In the case of ***Mahesh Kumar Agarwal vs. Union of India, 2025 SCC Online SC 2887***, the Hon'ble Supreme Court has observed that the person facing a criminal proceeding is not to be treated as absolutely disentitled to a passport, and the court has on the applicant furnishing an undertaking to appear before

the court as and when required, pass an order to issue the passport. The applicant would be entitled to passport. The Hon'ble Supreme Court has further observed that notification dated GSR 570(E) does not compel the criminal court to authorize a particular journey that, but it proceeds on a broader premise that where the criminal court permits the applicant to depart from India and the period of validity is anchored either in the court's order or in the default periods mentioned in the notification, the embargo in section 6(2)(f) can be lifted to that extent.

17. This Court in the judgment of ***Sagar Pradip Oak vs. State of Maharashtra, 2026 SCC OnLine Bom 4521***, in its paragraph No.47 has laid down certain guidelines and guideline No.(viii) states that in case of fresh passport application/applications made for the first time/ new passport, the passport authority shall not insist in a NOC/permission from the court and shall follow strictly the procedure, process and scrutiny as provided by the Passport Act. In guideline (ii) it is laid down that on the applicant filing the required undertaking and affidavit duly verified by the concerned criminal court, the passport authority

should not insist or raise for renewal of passport on the sole ground that the order of the court is not produced. One needs to keep in mind that the verified undertaking and the affidavit are issued under the supervision of the court.

18. In view of the above discussion, the applicant may be entitled to obtain the passport notwithstanding pendency of the criminal revision, subject to the Passport Act and other applicable requirements. But if any subsisting order of the criminal court restricts his foreign travel, he must obtain permission in accordance with that order before actually travelling.

19. Hence, this Criminal Application is allowed. Respondent No.2 is directed to process the application of the applicant for issuance of passport as per the rules and regulations framed under the law.

20. However, it is needless to mention here that in the event the applicant intends to travel abroad, he shall seek necessary permission from the concerned Court in that behalf.