

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.116 OF 2016

IN

CRIMINAL APPEAL NO.704 OF 2013

Ashok Govindrao Dingrani .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.M.G.Shukla with Mrs.Mrunmai Kulkarni, Advocate for the applicant.
Mr.V.B. Konde Deshmukh, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.
DATED : 7th MARCH, 2016

P.C. :

1 Heard Mr.M.G.Shukla, learned counsel for the applicant. Heard Mr.V.B. Konde Deshmukh, learned APP for the State.

2 The Appeal filed by the applicant challenging his conviction and the sentences imposed upon him has been admitted. By this application, the applicant prays that this court be pleased to grant *No Objection* for renewal of his passport and for the return of the same to him.

3 According to the learned counsel for the applicant, the Passport Authority is not renewing the passport of the applicant, and that the applicant has been told by the Passport Authority that

for renewal of the passport, an order/'No Objection' from this Court before which the Appeal filed by the applicant is pending, would be necessary.

4 I find that the prayer is rather misconceived.

5 Section 6 of the Passports Act not only authorizes but requires the passport authority to refuse to issue passport in certain circumstances. Clause (f) of sub-section (2) of the said Section provides that, the passport authority shall refuse to issue a passport on the ground that proceedings in respect of an offence allegedly committed by the applicant for passport, are pending before a criminal court in India. It is not in dispute that the same rules that apply for refusal to issue a passport, would apply for refusal to renew a passport also.

6 The rigors of the prohibition imposed by clause (f) of sub-section (2) of Section 6 of the Passports Act are diluted by a Government Notification {bearing No. G.S.R. 570(E) dated 25th August 1993} issued by the Ministry of External Affairs in exercise of the powers conferred by clause (a) of Section 22 of the Passports Act. It provides, *inter alia*, that the prohibition to issue passport to a person against whom a criminal case is pending before criminal court in India, would not apply, 'if such person produces an order from the concerned court, *permitting him to depart from India*'.

7 Thus, undoubtedly, the Court's intervention in the matter would be necessary, but only to the extent of granting

permission to the applicant to depart from India; and not to the extent of issuing any direction to the Passport Authority to issue/renew the passport.

8 After hearing Mr.Shukla, it appears that the notion of the Passport Authority is that the applicant should produce a permission from this Court “for renewal of passport”, and that it is only then that the Passport Authority can renew the passport. This notion is not correct. What the applicant is expected to secure from the court is a permission to depart from India, and not a 'No objection' to issue or renew a passport. This is very clear from a bare reading of the provisions of Section 6 of the Passports Act and the aforesaid notifications. The legal position appears to be that the Court's Jurisdiction in such cases would be limited to deciding whether or not to grant permission to an accused before it to go abroad during the pendency of the proceedings before it. Whether to issue a passport, or to renew it, is required to be dealt with by the Passport Authority.

9 The application cannot be allowed in the form in which the prayer has been made.

10 It would be open for the applicant to make an appropriate application, seeking an appropriate permission from this Court.

11 With these observations, the application is disposed of.

(ABHAY M.THIPSAY, J)