

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO.1371 OF 2015**

Shabbir Bashir MemonApplicant
versus
The State of Maharashtra and Anr.Respondents

.....
Mr. S.I. Kantharia for the Applicant.
Mr.A.S.Patil, APP for the State.
Mr. D. P. Singh for the Respondent no.2.
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CORAM : PRAKASH D.NAIK, J.

DATE : JULY 14, 2016.

P.C.:

1. This is an application seeking issuance of directions for issuance of fresh / renewal of Passport in favour of the applicant.
2. The applicant is facing prosecution vide Sessions Case No.714 of 2011 and No.1 of 2013 for offences punishable under section 323, 324, 143, 145, 148, 149 and 504 of the Indian Penal Code. He was arrested and released on bail and on completing investigation the charge-sheet was filed before the Court of Metropolitan Magistrate at Andheri, Mumbai.

3. Presently the proceedings are pending before the Session Court, Bombay as the present case is clubbed with cross case involving the offence which is triable by the Sessions Court.

4. Applicant had earlier preferred an application before the Court of Metropolitan Magistrate for renewal of Passport to enable him to travel abroad. The said application was allowed for travelling by order dated 15th February, 2012.

5. Since the proceedings are pending before the sessions Court, the applicant preferred application before the Sessions Court for issuance of Passport from the Office of the Regional Passport Authority in his name for travelling abroad during the specified period. The said application was rejected by the Sessions Court vide order dated 2nd September, 2015. It was observed in the said order that the trial in which the applicant is being impleaded as accused has been expedited by the High Court and it would not be just and proper to allow the applicant to go abroad for religious or business purpose.

6. The applicant therefore preferred the present application. In this application, however, the applicant has not prayed for

permission to go abroad and his request is only for renewal of passport. The learned Counsel for the applicant states that as and when he is required to travel abroad, he will seek permission from the concerned Court.

7. The learned prosecutor appearing for the State has opposed the application. It was submitted that the applicant may misuse the passport after its renewal. It was further submitted that trial in which the applicant is facing prosecution will commence within a short span of time. The learned Counsel for the respondent no.2 has submitted to the orders of the Court.

8. The learned Counsel for the applicant states that in the event of renewal of Passport he will not leave India without seeking permission from the concerned Court. He further submitted that the applicant would file an undertaking before the Session court, Mumbai within a period of two weeks from today, that after renewal of the passport he would not leave India without seeking the permission of the Competent Court.

9. In view of the above, the following order is passed:

(a) Respondent no.2 is directed to renew the passport of the applicant in accordance with the law, for the requisite period as they deem fit and proper subject to undertaking being submitted by the applicant before the Sessions Court where his trial is pending, that he will not leave India on renewal of his passport without the permission of the Competent Court.

(b) Application stands disposed off.

(PRAKASH D.NAIK, J.)