

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.787 OF 2018

IN

CRIMINAL APPEAL NO.76 OF 2012

Ajay Baijnath Mahatha ... **Applicant**

V/s.

Intelligence Officer,

Narcotics Control Bureau & Ors. ... Respondents

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Mr.Dilip Mishra i/b. Mr.Ayaz Khan, Advocate for the Applicant.

Ms.Yasmin N. Katpitia, Advocate for the Respondent No.1.

None for the Respondent No.2.

Mr.S.V.Gavand, APP for the Respondent No.3/State.

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CORAM : A.M.BADAR J.

DATED : 25th SEPTEMBER 2018.

P.C. :

1 None appeared for respondent No.2/Regional Passport
Officer despite service.

2 This is an application for return of expired passport
with a direction to the respondent No.2 Regional Passport Officer
for issuance of fresh passport.

3 Heard the learned Counsel appearing for the applicant. He argued that the passport issued in favour of the applicant has expired and the applicant requires fresh passport. Therefore, necessary directions be issued.

4 The learned Counsel appearing for the respondent No.1 vehemently opposed the application by contending that the co-accused, to whom such passport was issued has already absconded and fled to Canada. The same course may be followed by the present applicant and, therefore, the application deserves to be rejected.

5 I have carefully considered the submissions so advanced and also perused the Record and Proceedings.

6 The applicant is convicted of offences punishable under Section 25(A) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and he is sentenced suitably by the learned Special Judge for NDPS Act cases. The reply filed by the prosecuting agency do shows that the co-accused, who is convicted and who was released on bail has absconded by misusing the permission to travel to Canada granted by this Court.

7 In this view of the matter, I am of the considered opinion that interest of justice would serve by directing the

Registrar of the City Civil and Sessions Court, Mumbai to send expired passport of the applicant directly to the Regional Passport Officer and if the Regional Passport Officer find it fit to issue fresh passport to the applicant, then the same be sent directly to the Registrar, City Civil and Sessions Court, Mumbai. Therefore, the Order :

ORDER

- (i) The Registrar, City Civil and Sessions Court, Mumbai is directed to send expired passport of the applicant directly to the respondent No.2/Regional Passport Officer.
- (ii) If the respondent No.2/Regional Passport Officer finds it fit to issue fresh passport in favour of the applicant, then such passport be deposited directly by the respondent No.2/Regional Passport Officer with the Registrar, City Civil and Sessions Court, Mumbai.
- (iii) With these directions, the application is disposed of accordingly.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

Digitally signed
by Raju
Dattatraya
Gaikwad
Date: 2018.09.26
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