

Vidya Amin.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1310 OF 2018

Pramod Shantaram Chaudhari ... Applicant

VS.

The State of Maharashtra & Ors. ... Respondents

Mrs. Pooja N. Sejpal i/b. Mr. Nitin Sejpal, Advocate for the applicant.

Ms. Veera Shinde, APP for the respondent/State.

Mr. D.P. Singh, Advocate for respondent no. 2/UOI.

Mr. K.V. Bimal, Senior Superintendent, Regional Passport Officer, BKC, Mumbai.

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: 1st November, 2018

P.C. :

Criminal Application is moved by the applicant for granting permission to the petitioner to obtain passport from the Regional Passport Authority, Regional Passport office, Worli. Earlier, Criminal Application No. 1227 of 2018 was moved by the same applicant and sought permission that his application seeking permission to obtain passport since 12th January, 2018. This Court by order dated 17th October, 2018 directed the Sessions Court to decide the Application, as it is pending.

2. The applicant/accused is prosecuted for the offences

punishable under sections 406, 420, 467, 468, 471, 109, 201, 477C r/w. 34 of Indian Penal Code, Section 3 of MPID Act, under section 147 of Maharashtra Cooperative Society Rules and sections 65 and 66 of Information Technology Act in C.R. No. 03 of 2013. After hearing both the parties, the learned Sessions Judge by order dated 24th October, 2018 has passed correct order rejecting the Application Exhibit 214 with finding that there is neither an order of rejection of the Application from the Passport Authority nor the Authority has asked the Applicant to bring the permission of the Court to get the passport. The learned Judge has rightly observed that every citizen of India has right to obtain passport and therefore, for want of the order of the Passport Authority has rightly rejected the Application. Thereafter, another Application is filed in the Court.

3. The learned counsel for the applicant has pointed out the print out of the online application made by the applicant and also the photocopy of the online remark in Token no. 637. The remark is as follows:

“On Hold Remarks by Granting officer : Court case pending call
gsr order
Next Appointment Date and time : 04/10/2018, 9.00 AM
Reporting time: 8.45 AM”

The learned counsel for the applicant submitted that on that date, the applicant/accused attended the Passport office and met the concerned passport officer but he refused to give the passport owing to this remark. Therefore, the applicant filed this Application.

4. The Passport officer is called upon to point out the order of either rejection on account of Court case pending or some compliance, i.e., bringing the permission of the Court. The matter is kept back at 3 p.m.

At 3 p.m.

5. The passport officer is present before the Court. On query, he informs that as per General Statutory Rules, if a criminal case is pending against a particular person who applies for passport, then he/she is required to obtain permission or No Objection of the Court for issuance of the passport. However, he fairly submits that at the time of scrutiny of online application made by the present applicant, in the acknowledgement receipt, the remark does not show specifically that the said Rules are to be complied with by

obtaining permission or No Objection of the Court in issuing the passport.

6. In view of this, I pass the following order:

1] As per the GSR Rules, if criminal matter is pending, such person has to obtain the permission of the Court where the matter is pending. In the present matter, the Applicant has been prosecuted for the offences as mentioned above.

2) In view of the matter, I am inclined to allow the application.

3] Permission is granted to the Applicant to apply to the competent authority for grant of Passport. The said authority would consider the said application in accordance with law.

4] However it is made clear that, the Applicant shall not leave the Country without obtaining prior

permission of this Court.

7. The passport authority to take note that while acknowledging the application, if any criminal case is pending against the particular applicant, then the passport authority is required to specifically mention in the remark column that "Criminal case pending hence, obtain permission of the Court as per General Statutory Rules".

8. Criminal Application is allowed.

(MRIDULA BHATKAR, J.)