

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

CRIMINAL WRIT PETITION NO.2760 OF 2019

Sayed Ali Ahmed Mohamed ..Petitioner
V/s.
The State of Maharashtra & Ors. .. Respondents

Mr.Aditya Sharma i/b Ms.Sudha Dwivedi for the Petitioner.

Mr.K.V. Saste, AGP for the Respondent-State.

Mr.Mohan Singh Rajput a/w Ms.Krishma Patel for Respondent No.2.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 05th JULY 2019

P.C.

1. The petitioner who is an Indian Citizen has approached this Court being aggrieved by the adverse report filed by the D.N. Nagar Police Station before the Regional Pass-port Officer where he has applied for Police Clearance Certificate. The said clearance is refused on account of a pending trial for an offence registered against the petitioner in the year 2016 punishable under Section 294, 114, 34 of the Indian Penal Code and read with Sections 3, 8(1)(2) of Maharashtra Prohibition of Obscene Dance in Hotels Restaurants and Bar Room and Protection of Dignity of Women Act,

2016.

The petitioner was released on bail in the said offence and when he went to renew the pass-port issued to him at Jedah he was made aware of the criminal proceedings being instituted against him.

2. The petitioner is desirous of going abroad since there is a job letter offered to him from restaurant and cafe in Kuwait City. He preferred an application before Metropolitan Magistrate for renewal of his passport for 10 years and on 29.03.2019, the Metropolitan Magistrate granted the request of the petitioner and directed the Pass-port Authority to consider his application for renewal of Pass-port for 10 years. The Metropolitan Magistrate accorded his no objection for such renewal in terms of the rules made under the Pass-port Act. The Magistrate however, imposed a stipulation that the applicant should not travel abroad without prior permission of the concerned police station and the Court. Subsequent to this order, the petitioner approached the Metropolitan Magistrate Court once again requesting permission to go abroad for job purpose for the period of one year. Even this application was granted by the Metropolitan Magistrate by order dated 10.05.2019 and the petitioner is permitted to travel abroad

for one year subject to the condition of furnishing necessary documents in relation to his permanent address and his address of abroad.

The said order is passed on 10.05.2019 and in spite of this order, the local police of D.N. Nagar Police Station in its Police Verification Report which is of the same date i.e. 10.05.2019 refused to grant permission on account of the pendency of the criminal proceedings. Based on this objection the Pass-port Office, Mumbai by order dated 16.05.2019 refused Police Clearance Certificate to the petitioner in the backdrop of the adverse report.

3. We have heard the learned counsel for the petitioner and also perused the provisions of Section 6 as well as Section 10 of the Pass-port Act, 1967. We have also taken note of the Notification issued by the Ministry of External Affairs on 25.08.1993 which is in exercise of power conferred under clause (2) of Section 22 of the Pass-port Act, 1967. Perusal of the notification would reveal that the Central Government has exempted class of citizens against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal Courts in India and one stipulation is if such person produce an order from concerned Court permitting him to depart from India and then he

would be exempted from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act and the condition in the said section stands relaxed to that effect.

4. In the light of the statutory scheme, we have noted that by order dated 29.03.2019 the Metropolitan Magistrate has granted no objection for renewal of the pass-port of the petitioner and by order dated 10.05.2019 he has accorded permission to the petitioner to travel abroad for one year. It appears that subsequent order passed on 10.05.2019 is not take into consideration by the concerned Police Station and it resulted into a negative Police Verification Report on the sole ground of pendency of the criminal case.

5. In light of the aforesaid facts when petitioner is required to travel abroad and his entry visa is to expire on 22.07.2019, the document of the petitioner ought to be processed immediately, since, it is noted that in spite of the orders passed by the Metropolitan Magistrate concerned the Police Station has given negative Police verification report and it is reported that it is on account of the fact that the order of the Metropolitan Magistrate was not communicated to the concerned Police Station.

In such circumstances, we direct the D.N. Nagar Police to grant Police Verification Certificate in favour of the petitioner in light of the order dated 10.05.2019 passed by the Metropolitan Magistrate and said certificate should be granted within period of 24 hours from the receipt of this order.

6. The Police Verification Report would then be forwarded to the Pass-port Officer, Mumbai, who is directed to process the application of the petitioner within a period of two days from the receipt of Police Verification Report.

7. With the aforesaid direction the Writ Petition is disposed of.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)