

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

**CRIMINAL APPLICATION NO. 1073 OF 2019
IN
CRIMINAL APPEAL 204 OF 2004**

Shiv Narain

....Applicant

V/S

The State Of Maharashtra & Anr.

...Respondents

Pawan Mali for the Appellant/Applicant

H. S. Venegaonkar for the Respondent-CBI

Ms. P. N. Dabholkar, APP for the State

CORAM : DAMA SESHADRI NAIDU, J.

DATED : 19th July 2019

P.C.:

The applicant was convicted in Special Case No. 38 of 2000 through judgment, dated 17th December 2003, under Sections 7 and 13(2), r/w. Section 13 (1)(d) of the Prevention of Corruption Act. He was sentenced to undergo one-year rigorous imprisonment, besides fine of Rs.5000/-. Pending this appeal, he was enlarged on bail.

2. The applicant is 70 years old now. He seeks to travel abroad. For that purpose, he has filed this Criminal Application. But the Respondent-CBI has brought to the Court's notice, through its Counsel, that earlier this Court permitted the applicant to have the passport renewed. It also wanted the applicant to deposit the

passport with CBI after its renewal. Yet he has not complied with the conditions.

3. In response, the applicant's counsel submits that it was a *bona fide* mistake on the applicant's part—neither deliberate nor intentional. The fact, according to him remains that the applicant has not misused the passport in any way.

4. First, the appeal has been pending for about 15 years, and the applicant is in his 70s. True, there is a lapse on his part on earlier occasion. Though the applicant's omission cannot be appreciated, it can be condoned given his age and also the long pendency of this appeal. Besides that, he did not misuse his passport.

5. In these circumstances, the application is allowed. The applicant may travel abroad, in terms of prayer clause "a".

6. At any rate the Court place on record its cautions that if the applicant misuses the liberty now granted to him, the Court will view his conduct strictly. As a result, now the Respondent - CBI will return the passport to the applicant to enable him to travel abroad.

7. At this juncture, the CBI's Counsel has insisted this Court direct the applicant to re-deposit the passport with the authorities

once he returns. The applicant's counsel agrees for this proposal.

8. The Criminal Application thus stands disposed of.

(DAMA SESHADRI NAIDU, J.)