

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

Santosh Digambar Mithbawkar ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. A. R. Patil, A.P.P for the Respondent – State.

(THROUGH VIDEO CONFERENCING)

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks quashing and setting aside of the impugned order dated 13th February, 2020, passed by the learned Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai, below Exhibit – 1 in C.C. No.1874/M/2019, by which the applicant's application seeking no objection for renewal of his passport was rejected. The applicant has also prayed for a direction for renewal of his

passport for a period of 10 years.

3. Learned Counsel for the applicant submits that the applicant on earlier occasions had filed applications in the trial Court seeking no objection for renewal of his passport and that the trial Court had granted the said no objection for renewal of the applicant's passport on some occasions for 1 year and on one occasion for 5 years. He submits that the applicant has travelled abroad on several occasions and has returned back to India. He submits that having being granted no objection for renewal of the applicant's passport on earlier occasions, the trial Court vide the impugned order dated 13th February, 2020, was not justified in rejecting the applicant's application (Exhibit – 1) seeking no objection for renewal of his passport.

4. Learned APP does not dispute the fact that the learned Magistrate on three earlier occasions had granted no objection for renewal of the applicant's passport on two occasions for 1 year and on one occasion for 5 years.

5. Perused the papers. The applicant is facing prosecution in connection with C.R.No.275 of 2008, registered with the Chembur Police

Station, Mumbai, for the alleged offences punishable under Sections 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code. After investigation, charge-sheet was filed as against the applicant in the trial Court. It appears that in 2013 as the applicant's passport was expiring, the applicant filed an application seeking no objection for extension of validity of his passport for 5 years. The trial Court vide order dated 14th August, 2013, allowed the applicant's application and granted no objection for extending the validity of the applicant's passport for a period of 5 years. Vide the said order the trial Court also directed the applicant to inform the Court as and when he would be travelling abroad and would be returning to India. Thereafter again in May 2018, the applicant applied for no objection for renewal of his passport. The trial Court vide order dated 8th May, 2018 allowed the said application and granted no objection for renewal of applicant's passport for a period of 1 year. Vide the said order dated 8th May, 2018, the trial Court also directed the applicant to furnish a photo copy of his passport after renewal in the Court and directed that the applicant shall not travel out of India without the prior permission of the Court. Again in December 2018, the trial Court vide order dated 1st December, 2018, granted no objection for renewal of applicant's passport for a period of 1 year with the same directions i.e. that the applicant shall furnish a photo copy of his passport after renewal in the Court and that he shall not travel out of India without

the prior permission of the Court.

6. Having earlier granted no objection for renewal of the passport on almost 3 occasions, the trial Court was not justified in rejecting the fresh application (Exhibit – 1) seeking no objection for renewal of his passport again in 2020, only after considering the merits of the case.

7. Learned APP has brought nothing adverse on record to show that the applicant has not complied with the earlier conditions imposed by the trial Court on the applicant or any adverse conduct.

8. In this light of the matter, having regard to what is stated aforesaid, the application is allowed and disposed of on the following terms and condition:-

ORDER

i) The impugned order dated 13th February, 2020, passed by the learned Additional Chief Metropolitan Magistrate, 11th Court, Kurla, Mumbai, below Exhibit – 1 in C.C. No.1874/M/2019, is quashed and set aside;

- ii) The Passport authorities to renew the applicant's passport for a period of 2 years, as per the Passport Act and Rules thereunder;
- iii) After renewal of the passport, the applicant to file a photo copy of his passport in the trial Court;
- iv) The applicant shall not travel out of India without prior permission of the trial Court.

9. Application is allowed and disposed of in above terms.

10. All concerned to act on the copy of this order, digitally signed by the Private Secretary of this Court.

REVATI MOHITE DERE, J.