

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 1 OF 2020
IN
WRIT PETITION NO. 2593 OF 2016**

Mr.Jahaan Minoo Dastur ...Applicant

IN THE MATTER BETWEEN

Mr.Jahaan Minoo Dastur ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondent

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Mr.Darius Khambata, Senior Counsel a/w. Mr.Robin Jaisinghani
i/b. Mr.Husayn Kopty for the Applicant/ Petitioner.
Mr.Deepak Thakare, PP, a/w. Mr.K.V.Saste, APP for the
Respondent -State.

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**CORAM : S.S. SHINDE &
V.G.BISHT, JJ.**

DATE : MARCH 11, 2020

P.C.:

1. Heard Mr.Khambata, learned Senior Counsel, for the
applicant/petitioner and Mr.Thakare, learned PP, for the
respondent -State.

2. It appears that notice was given to respondent No.2 for today's hearing. However, from the e-mail copy filed on record, it appears that respondent No.2, while being informed about hearing of the present matter, replied that on being checked the cause-list, he found that the matter is not listed today for hearing either in the regular cause-list or on the supplementary board. However, the applicant/ petitioner again replied him and informed about the hearing of matter and the listing of matter on 11th March, 2020 before this Court. Despite the said notice and the fact that the matter is listed today for hearing, respondent No.2 chose to remain absent.

3. We have heard Mr.Khambata, learned Senior Counsel, for the applicant/petitioner.

4. It may be noted that the petition is filed for quashing and setting aside CC No. 482/PS/16 pending on the file of learned Additional Chief Metropolitan Magistrate, 38th Court, Ballard Pier, Mumbai. The said case arises out of registration of FIR bearing CR No. 355 of 2015 with MRA Marg Police Station at

the instance of respondent No.2 for an offence punishable under Section 337 of the Indian Penal Code. It further appears that the said petition was placed before this Court (Coram: A.S.Oka and A.A.Sayed, JJ.) on 11th August, 2016 and after hearing the learned Counsel for the petitioner, ad-interim relief in terms of prayer clause (c) was also granted, thereby staying further proceedings of the said criminal case.

5. It then appears to us that pursuant to an application by way of an affidavit made by the applicant/ petitioner for renewal of his passport, this Court (Coram: Shri Ranjit More & Smt.Bharati H. Dangre, JJ.) vide order dated 22nd October, 2018 was pleased to grant the same. This Court was also pleased to grant permission to the petitioner to depart from India during the subsistence of his then passport and also during the period of his renewed passport. The passport of the applicant/ petitioner was renewed on 6th December, 2018 for a period of one year therefrom and passport No. Z5155779 was issued to the applicant/petitioner which expired on 5th December, 2019.

6. Further, the applicant/ petitioner moved Interim Application No. 1 of 2019 and vide order dated 20th December, 2019 this Court (Coram: B.P.Dharmadhikari & Nitin R. Borkar, JJ.) was pleased to direct the Passport Renewing Authority to renew the passport of applicant for three years ignoring pendency of the matter, in accordance with law. This Court was further pleased to grant permission to applicant to move an appropriate application seeking leave to travel abroad.

7. Pursuant to the above order, the Passport Authority was pleased to issue passport bearing No.Z5872872 (renewed passport), validity of which is till 30th January, 2023.

8. According to learned Senior Counsel for the applicant/petitioner, the applicant/ petitioner is scheduled to travel to Sri Lanka on 10th April, 2020 as a tourist for a period of five days and accordingly has booked his tickets. Thereafter, he also intends to travel to South Africa in May, 2020 with his family for a period of 15 days and has accordingly booked his

flight tickets from Mumbai to Johannesburg .

9. By way of present Application, the applicant/petitioner has made the following prayer :

“(a) that this Hon’ble Court be pleased to issue appropriate orders and directions permitting the Applicant to depart from India and granting him leave to travel abroad during the subsistence of his renewed passport bearing No. Z5872872”.

10. After considering the submissions advanced by learned Senior Counsel the fact remains that interim relief of staying the criminal proceedings against the applicant/ petitioner has already been granted by this Court and as also in the light of directions given by this Court from time to time, the passport of the applicant/ petitioner has also duly been renewed for the purpose of enabling him to travel abroad.

11. In the above backdrop, we do not find any reason not to permit the applicant/ petitioner to travel abroad. The applicant/ petitioner is therefore permitted to depart from India and we further grant him leave to travel abroad during the subsistence

of his renewed passport bearing No. Z5872872.

12. Interim Application is allowed and accordingly disposed of.

13. For further hearing, Petition is adjourned to 20th March, 2020 at 4.00 pm.

14. The applicant/ petitioner shall communicate the next date of hearing to respondent No.2.

(V.G.BISHT, J.)

(S.S. SHINDE, J.)