

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

958 CRIMINAL APPLICATION NO.1700 OF 2021
IN WP/1488/2014 WITH WP/1488/2014

SHRI R. RADHAKRISHNA KURUP

..APPLICANT

VERSUS

KULANAND SUSHIL KUMAR ROY AND OTHERS

..RESPONDENTS

...

Advocate for Applicant : Mr. K. C. Sant

APP for Respondents: Mr. S. N. Morampalle

Advocate for respondent Nos. 3 and 4 :Mr. A.G. Talhar

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CORAM : SURENDRA P. TAVADE, J.

DATE : 01.09.2021

PER COURT :-

Heard learned counsel for the applicant and learned Assistant Solicitor General for respondent Nos. 3 and 4. Perused the reply filed by learned counsel for respondent Nos. 3 and 4 and GSR Notification dated 25.08.1993.

2. This is application for renewal of Pass-port for the period of 10 years as per the provisions of Passport Act. The applicant is facing charges under Section 166, 167, 403 of the Indian Penal Code on the basis of complaint filed by Mr. R.R. Kurup. The passport of applicant has already expired on 26th August, 2020.

3. The learned counsel for the petitioner has relied on the ratio laid down in the case of **Mr. Samip Nitin Ranjani Vs. Unio of India and Others in Writ Petition No. 12784 of 2016** wherein it was held that

“ It has to be borne in mind that whenever a criminal complaint is pending against an applicant, who wishes to travel abroad, the Magistrate alone has a jurisdiction to impose conditions regarding his right to travel abroad. If the Magistrate is satisfied that the Applicant should not be permitted to travel abroad, he can reject his application. However, when an application is made for renewal of passport, the Passport Authorities have to adhere to the provisions of the Act and the Rules framed thereunder. It appears that the Central Government has issued a Notification by exercising a power vested in them under Section 6(2)(f) of the Passports Act, 1967 and in the said Notification, it has been mentioned that the passport can be renewed for a period of one year. There being an ambiguity under the provisions of the Act and the Rules and the Notification issued by the Passport Authorities, this Court was pleased to clarify the said ambiguity in the case of Narendra Ambwani (supra). The Passport Authorities do not have the right to decide whether the accused has a right to travel abroad or not and that right is vested in the Magistrate, who can impose conditions if an application is made, seeking permission to travel abroad. The Apex Court in the case of Maneka Gandhi Vs. Union of India (1978 SCR(2) 621) has held that the right to travel for the purpose of

business and service is a part of a fundamental right, subject to reasonable restrictions, which are imposed by the Act and by the Court.”

4. In the present case the applicant was a Vigilance Officer in the Railways. Now he is working in other Department of Central Government. His son is studying in Australia, therefore, he required to visit Australia and for that purpose he can seeks the permission from the learned Judicial Magistrate to travel abroad. Taking into consideration the above mentioned facts I direct the Passport authority to consider the application for issuance of passport to the applicant for the period of ten years. It is clarified that however, applicant to apply learned Judicial Magistrate for seeking permission to travel abroad.

5. With this direction the application is disposed of.

(SURENDRA P. TAVADE)
JUDGE

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