

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.641 OF 2020

Kiran s/o Narayanrao Chidrawar,
Age about 61 years,
Occupation: Business.
R/o Besides Dr. More Hospital,
Shivaji Nagar, Nanded, Shivajinagar,
Maharashtra. **PETITIONER**

...V E R S U S...

1. State of Maharashtra, through
Police Station Officer,
Police Station Sitabuldi, Nagpur.
2. Passport Authority, Regional Passport
Office Pune, Passport Bhavan,
SR No.5/2/2, Baner-Pashan Link Road,
Baner, Pune-411045. **RESPONDENTS**

Mr. S.R. Kadam, Advocate for Petitioner.
Mr. S.S. Doifode, APP for Respondent 1/State.
Mrs. Mugdha R. Chandurkar, Advocate for Respondent 2.

CORAM: **ROHIT B. DEO, J.**
DATE: **25th JANUARY, 2021.**

ORAL JUDGMENT:

With consent the petition is finally heard at the admission stage.

2. The petitioner is assailing the order dated 14.10.2020

rendered by the Judicial Magistrate First Class, Court-2, Nagpur whereby the application preferred by the petitioner seeking permission to travel abroad, is dismissed.

3. The learned Magistrate observes that the trial is pending since 1981 and that the petitioner did not appear in the court since the inception. The learned Magistrate then notes that offence punishable under Section 353 is, in view of the amendment, triable by court of sessions and that it would be difficult to procure the presence of the accused to face the trial.

4. The learned counsel for the petitioner would submit that his daughter Mrs. Anagha Bidwai is based in United Kingdom (U.K.) along with her husband who is an Orthopedic Surgeon. The petitioner's daughter who is a Gynecologist recently gave birth to a girl child and the petitioner is anxious to see his grand-daughter. It is further stated that the petitioner's wife is already in the United Kingdom, and the petitioner would therefore, like to be reunited with the family.

5. Adverting to the apprehension of the prosecution which is noted by the learned Magistrate, the submission is that

the petitioner was not even aware of the pending trial till he came to know from the adverse report submitted by the police to the Passport Office, that such a prosecution is pending. The learned counsel assures the court that the petitioner shall deposit cash security of Rs.3,50,000/- with the jurisdictional court and shall furnish one surety to the satisfaction of the court, who shall be a respectable citizen based in Nanded District.

6. The learned counsel Mrs. Chandurkar points out that the petitioner has surrendered the Passport and that the same would be reissued for a particular period only if this court permits the petitioner to travel abroad.

7. Considering the matter holistically, in my considered view, the petitioner can be permitted to travel abroad subject to certain conditions.

8. The petitioner shall deposit cash security of Rs.3,50,000/- and shall further furnish solvent surety for Rs.1,00,000/- by a respected citizen who is based in Nanded District, to the satisfaction of the trial court.

9. The Passport authority shall, after the petitioner complies with the conditions *supra*, issue Passport initially for twelve months and the extension thereof shall depend on the conduct of the petitioner and the proceedings pending.

10. Needless to say after complying with the conditions, the petitioner shall submit an appropriate application to the Passport Officer for issuance of Passport who shall consider the same on the lines indicated in this judgment.

11. Rule is made absolute in the aforestated terms.

JUDGE