

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1447 OF 2018

Nanalal Sohanlal Jain	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Kajal Singh i/b Diwakar R. Singh for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.
DATE : 8th APRIL, 2022

P.C. :

1. At the outset, learned Counsel for the applicant seeks leave to amend the prayer clause. Leave granted. Amendment to be carried out forthwith.

2. By this application, the applicant seeks quashing and setting aside of the impugned order dated 5th April, 2018 passed by the learned Metropolitan Magistrate, 71st Court, Bandra, Mumbai, in C.C.No. 328/PW/2017, by which, the learned Judge was pleased to reject the applicants application seeking return of passport, which was surrendered by the

applicant, before the **71st Metropolitan Magistrate Court, Bandra**, pursuant to one of the conditions imposed by the learned Sessions Judge whilst enlarging the applicant on bail i.e. the order dated 20th July, 2015.

3. Perused the papers. The applicant was arrested in connection with C.R.No.129 of 2015 registered with the BKC Police Station, Mumbai, for the alleged offence punishable under Section 406 r/w 34 of the Indian Penal Code, on furnishing personal bond of Rs.25,000/- with one or two sureties in the like amount and other conditions. Vide clause (3) of the said order dated 20th July, 2015, the applicant was directed to surrender the passport before the Remand Court and the applicant was directed not to leave India, without the prior permission of the trial Court. Certain other conditions were also imposed by the said Court. After investigation, chargesheet was filed as against the applicant and the matter is pending for trial.

4. The applicant filed an application and sought return of his passport which was surrendered by him, with the Police, BKC Police Station, in compliance with clause (3) of the order dated 20th July, 2015. It is pertinent to note, that the applicant's passport was not seized by the police, but it was the trial Court which imposed the said condition on the

applicant i.e. to deposit his passport, whilst enlarging him on bail. The trial Court has already imposed a condition that the applicant shall not leave India without the prior permission of the trial Court and hence, there is no impediment if the passport is returned to the applicant.

5. Learned Counsel for the applicant has also tendered an affidavit of the applicant stating therein, that the validity of the applicant's passport has expired and that he needs to renew his passport. The applicant, has annexed his Aadhar Card to his affidavit. The said affidavit is taken on record.

6. Considering the aforesaid, the impugned order dated 5th April, 2018 is quashed and set aside. The **71st Metropolitan Magistrate Court, Bandra**, to return the applicant's passport forthwith to him.

7. Needless to state, that the applicant shall comply with all the conditions imposed by the trial Court vide order dated 20th July, 2015, whilst enlarging him on bail.

8. Application is allowed on the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.