

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.37/2022

Avinash Tikaram Chichkhede,
age 31, Occ. Medical Paediatrician,
R/o At Karambhad, Post Parseoni,
Tah. Parseoni, Dist. Nagpur 441 105.

... Petitioner

- Versus -

1. State of Maharashtra,
through the Superintendent of Police
(Rural), Civil Lines, Near Providence
Girls School, Nagpur 440 001.
2. State of Maharashtra,
through the Police Station Officer,
Parseoni Police Station, Dist. Nagpur
441 105.
3. Union of India,
through Regional Passport Officer,
CGO Complex, B Block First Floor
Seminary Hills, Nagpur Maharashtra
440 006.
4. Krushnaji Vishwanath Nagrae,
aged 66 Yrs., Occ. Nil,
R/o Plot No.38, Samrat Ashok
Colony, Kashi Nagar, Rameshwari
Road, Nagpur, Mo. No.9372240674.

... Respondents

Mr. (Dr.) A.H. Jamal, Advocate for the petitioner.

Mr. U.J. Damle, A.P.P. for respondent Nos.1 and 2.

Mr. S.A. Coudhari, Advocate for respondent No.3.

Mr. A.A. Pansare, Advocate for Respondent No.4.

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.**

DATE : 16.6.2022

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent.

2. The petitioner is a doctor by profession possessing qualification M.D. Paediatrics and is interested in pursuing higher studies in foreign university for which purpose, the petitioner has received fellowship to serve in National Health Service at Walsall Healthcare, Manor Hospital, U.K. The petitioner had applied for issuance of passport but same is declined by the passport authority on the ground that in the police verification report there is an

adverse remark passed against him. Adverse remark relates to pendency of a criminal case against him. This criminal complaint, as stated by the learned counsel for the petitioner, is pending before the Judicial Magistrate, First Class, Corporation Court No.2, Nagpur vide Criminal Complaint Case No.768/2019.

3. Learned counsel for the petitioner submits that if Court permission to travel abroad is granted, the petitioner would be issued passport. He also submits that since the J.M.F.C., Nagpur has not taken any cognizance in Criminal Complaint Case No.768/2019, it cannot be said that any criminal case is pending against the petitioner.

4. Learned A.P.P. submits that in a case like this the petitioner would have to approach the concerned Court of J.M.F.C. for getting desired no objection which is also the submission of learned counsel for the Union of India.

5. Learned counsel for respondent No.4 submits that the petitioner has wrongly stated that no cognizance of Criminal

Complaint Case No.768/2019 has been taken by the trial Court. In support, he has tendered to us a copy of the order dated 13 April 2022 which is taken on record and marked "A" for identification.

6. On going through the document "A", we find that learned counsel for respondent No.4 is right in submitting that the trial Court has already taken cognizance of the Criminal Complaint Case No.768/2019 vide order dated 13 April 2022 whereby the court process has been issued against all the accused persons including this petitioner under Sections 294, 506 and 448 read with Section 34 of the Indian Penal Code which was made returnable on 13 May 2022. If this is so, the competent Court for the petitioner to seek no objection would be that of the Court of Judicial Magistrate, First Class, Nagpur before whom the said criminal complaint case is pending. In such a scenario the only Court which can consider the request for grant of no objection for issuance of passport would be the Court where the criminal complaint is pending. In this view of the matter, we are not

inclined to entertain this petition and we relegate the petitioner to the concerned criminal Court which is a trial Court at Nagpur for the purpose of seeking no objection for obtaining passport, in accordance with law.

7. The writ petition is, therefore, **dismissed**. However, we direct that if any application seeking no objection for issuance of passport is filed by the petitioner, same shall be decided after due opportunity of hearing being given to the complainant by the trial Court at the earliest, preferably within two weeks from the date of filing of the application.

8. An authenticated copy of this judgment and order be given to the learned counsel for the petitioner.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Tambaskar.

Signed By: NILESH VILASRAO
TAMBASKAR
Private Secretary

Signing Date: 16.06.2022 16:51