

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

CRIMINAL APPLICATION (APPA) NO.617/2022

IN

CRIMINAL APPEAL NO.395/2021

Devendra s/ol Mahadeorao Bhuyar Vs. State of Maharashtra

AND

CRIMINAL APPLICATION (APPA) NO.616/2022

IN

CRIMINAL APPEAL NO.390/2022

Devendra s/ol Mahadeorao Bhuyar Vs. State of Maharashtra

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders

Court's or Judge's order

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Mr. Tushar U. Tathod, Advocate for the Applicant.
Mr. A. A. Madiwale, A.P.P. for Non-applicant/State.

CORAM : AMIT B. BORKAR, J.

DATED : 18th AUGUST, 2022.

. Both these applications seek a permission to the applicant to travel Maldives and Dubai during the period of 22.08.2022 to 22.09.2022. The second prayer is to grant no objection for issuance of passport.

2. The applicant having been convicted for the offence punishable under Section 353, 294 and 506 of the Indian Penal Code and has been sentence to undergo rigorous imprisonment for three months, two months and three months respectively. The appeal against the said judgment has been admitted by this Court. The execution of sentence is suspended by this Court.

3. The learned Advocate for the applicant has placed reliance upon the judgment of the Hon'ble Apex Court in the case of *Vangala Kasturi Rangacharyulu Vs.*

Central Bureau of Investigation reported in **2022 All SCR (Cri) 485**. According to applicant, the Hon'ble Apex Court after considering the provisions of Section 6(2) of the Passports Act, 1967 had directed Passport Authority to renew passport of applicant on raising objection relating to pendency of present criminal appeal. He also invited attention of this Court to the judgment of the Hon'ble Apex Court in the case of **Satwant Singh Sawhney Vs. D. Ramarathnam, Assistant Passport Officer, New Delhi and others** reported in **AIR 1967 SC 1836**. The Hon'ble Apex Court in the said case has held that right to travel abroad is a fundamental right. It is also held that the expression personal liberty in Article 21 of the Constitution of India includes right to travel abroad. It is therefore prayed that the application deserves to be allowed.

4. The learned A.P.P. opposed the application by filing reply. It is submitted that in absence of Passport Authority being made party to the appeal, no direction can be issued to the Passport Authority. It is submitted that applicant has failed to approach the Passport Authority before filing present application and therefore, prayed for rejection of the application.

5. Having considered the impugned judgment and nature of offence, in my opinion, considering the fact that this Court has already suspended execution of sentence and the punishment imposed is not more than three months, the applicant has made out a case for grant of relief as prayed for.

6. I, therefore, pass the following order :

- i] The Passport Authority is directed to consider grant of passport without considering pendency of the present criminal appeals, if the application of applicant is otherwise complies with the provisions of Passport Act.
- ii] Applicant shall not visit any other country than Maldives and UAE.
- iii] Applicant shall furnish his cell phone number to the Investigating Officer and shall also give 48 hours prior notice to the Investigating Officer before his departure of India giving the details such as flight and ticket number.
- iv] Applicant shall return to India on or before 22.09.2022.
- v] Applicant shall mark his attendance before the Indian Embassy in Maldives and UAE and if he visits UAE, he shall mark his attendance before Indian Embassy in UAE on each Monday till he is in Maldives or UAE.
- vi] The applicant shall carry out cell phone with active cell phone No.7770068050.
- vii] Both the applications stands disposed of in above terms.

viii] All concerned shall act on the authenticated copy of this order.

JUDGE

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