

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 CRIMINAL APPLICATION NO.2512 OF 2023
IN APEAL/39/2014 WITH APEAL/39/2014

TALIBSHAHA BHIKANSHAHA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants : Mr. Shaikh Nasimoddin Rafiyoddin
APP for Respondent – State : Mr. S.N. Morampalle
...

CORAM : R. M. JOSHI, J.
DATE : AUGUST 11, 2023

PER COURT :

. At the outset, learned counsel for the applicants states that he is restricting his prayer only to the extent of release of the passport of applicant no.1.

2. The prayer for fixing early date of hearing is not pressed at this stage.

3. Applicant no.1 had surrendered the passport pursuant to the directions of the learned Trial Court in Regular Criminal Case No. 319 of 2008. There is no dispute about the fact that applicant no.1 is acquitted for the offence under Section 420 r/w. 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act.

4. At the time of passing of the judgment and order of acquittal, a direction was issued to handover the passport to applicant no.1 after appeal period is over. It seems that the said passport has not been handed over to applicant no.1 on the ground that the appeal against the said order is pending.

5. Applicant no.1 is acquitted of the offences charged against him. The presumption of innocence of this applicant is reinforced with the order of acquittal. In such circumstances, there is absolutely no reason of justification not to return passport to him. Right to travel is a fundamental right under Article-21 of Indian Constitution and that without justification, applicant cannot be denied to possess a passport.

6. Learned counsel for the applicant no.1 on instructions states that as and when the applicant no.1 wishes to leave India, he shall obtain appropriate permission from this Court.

7. The said undertaking is accepted. This undertaking takes care of apprehension of the prosecution about non availability of the applicant no.1 at the time of hearing of the appeal filed by the prosecution being Criminal Appeal No.39 of 2014.

8. In view of above, the application stands allowed in terms of prayer clause-4 (ii) and disposed of accordingly.

[R. M. JOSHI]
JUDGE

GGP