

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***INTERIM APPLICATION NO. 1616 OF 2023
IN
CRIMINAL APPEAL NO. 708 OF 2019***

Narendra Chotalal Patel ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Waqar Pathan i/b Mr. Karl Rustomkhan for the Applicant

Mr. V. B. Konde Deshmukh, A.P.P for the Respondent No.1-State

Ms. Ameeta Kuttikrishnan for the Respondent No. 2-CBI (EOW)

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.
TUESDAY, 31st OCTOBER 2023**

P.C :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks renewal of his passport, on such terms and conditions, as this Court may deem fit.

3 Perused the application. The applicant, vide judgment and order dated 30th April 2019 passed by learned Special Judge (CBI), Greater Bombay, has been convicted for the offences punishable under Sections 420, 467, 468, 471 r/w 120B of the Indian Penal Code along with other co-accused and has been sentenced to suffer imprisonment for life and to pay fine of Rs. 5 Crores. Sentences have also been awarded for the other offences and all sentences have been directed to run concurrently.

4 It appears that the applicant being aggrieved by the judgment and order of his conviction and sentence, has filed appeal being Appeal No. 708/2019. The said appeal was admitted by this Court vide order dated 11th June 2019. In the said appeal, the applicant filed an interim application being Criminal Application No. 759/2019 and sought suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal. This Court (Coram : B. P. Dharmadhikari

& Sandeep K. Shinde, JJ.) vide order dated 11th June 2019 allowed the said application and suspended the applicant's sentence and enlarged him on bail, on the following terms and conditions :

“i) Applicant shall deposit with Trial Court amount of Rs.1 Lakh provisionally towards fine;

ii) He shall surrender his passport to the U.O.I. and undertake not to use it during pendency of this appeal;

iii) He shall execute personal bond in the sum of Rs.5 lakhs and shall also give an independent surety in the like amount within a period of two weeks for his stay in India and for prosecution of this appeal;

iv) He shall furnish address at which he shall always be available during pendency of this appeal along with his contact number/s. Similar details in relation to his surety shall also be furnished;

v) He shall attend the office of Registrar/Superintendent of Special Judge, CBI, Greater Bombay on first working Monday after a gap of every two months regularly during pendency of appeal.

vi) He shall also keep vakalatnama of his advocate filed in this appeal alive during pendency thereof and shall not be entitled to any separate notice for final hearing;

vii) Omission to adhere to any term of this order shall entitle the respondent to take him in custody.”

5 The said order dated 11th June 2019 is at Exhibit `A' at page 18 of the application. Appeal is admitted on 11th June 2019.

6 Pursuant to the said order, the applicant has surrendered his passport to the Central Bureau of Investigation, Economic Offences Branch, Mumbai (`CBI, EOB'). Ms. Kuttikrishnan does not dispute that the said passport is currently in the custody of the CBI, EOB.

7 Learned counsel for the applicant submits that the applicant holds a NRO account with HDFC Bank and since he has received an email from the said Bank to update his passport details for accessing his account without issues, the aforesaid application has been filed by the applicant, for renewal of his passport, as his earlier passport has expired.

8 Learned counsel for the applicant has tendered an undertaking of the applicant dated 31st October 2023 duly affirmed before the Notary. The said undertaking is taken on record and a copy thereof is served on Ms. Kuttikrishnan, learned counsel appearing for the CBI. In the said undertaking, the applicant has stated in paras 3 to 7 as under :

“3. I say that I have moved an interim application before this Hon’ble Court for renewal of passport.

4. I say that I am a citizen of United States of America having passport bearing no. 424630647 having validity from 31ST MAY 2007 TO 30TH MAY 2017.

5. I say that as per order 11th June 2019 my son i.e. Prashant Narendra Patel had submitted my earlier passport with the office of Central Bureau of Investigation, Mumbai on 24th July 2019.

6. I say that I require the fresh passport to update my Know your customer (KYC) with my bank so that I have smoothly access my savings which is helping me to survive my daily expenses.

7. I say and undertake that I shall deposit my passport after being freshly issued and updating the Know your customer (KYC) of my bank with the office of Central Bureau of Investigation, Mumbai.”

9 As per clause 7, the applicant has undertaken to deposit his passport freshly issued on the office of the CBI, EOB. The said undertaking is accepted as an undertaking to this Court.

10 Accordingly, we allow the application and permit the applicant to renew his passport. We direct the concerned authority to renew the applicant's passport, as per the Passport Act and the Rules, thereunder.

11 As and when the passport is renewed, the applicant is directed to deposit the same with the CBI, EOB, Mumbai as per clause 7 of his undertaking.

12 Application is allowed in the aforesaid terms and is disposed of accordingly.

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

GAURI GODSE, J.

REVATI MOHITE DERE, J.