

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

CRIMINAL WRIT PETITION NO.2689 OF 2019

Mohammed Khizar Hussain Tuhan Petitioner
Versus
State of Maharashtra Respondent

Mr. Shahood A. Naqvi, Advocate for the Petitioner.
Mr. Arfan Sait, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th DECEMBER, 2023

P.C. :

1. This Writ Petition was filed in the year 2019 for directions to the officers of Azad Maidan Police Station, Mumbai to return his passport bearing No. Z 4486333 seized by them. During pendency of this Petition, the Petitioner preferred another application before the Additional Chief Metropolitan Magistrate, 64th Court, Esplanade, Mumbai in C.C. No.473/PW/2018. The prayer in that application was directions for release of his passport and also to seek permission to travel to UAE between 20.10.2022 to 19.12.2022. Thus, it appears that a similar prayer was made

by the Petitioner before learned Magistrate for return of his passport. That Application which was filed on 12.10.2022, is still not decided by the learned Magistrate. Said Application was filed in the changed circumstances citing urgency and it was expected that it was decided earlier.

2. Considering that same issue is pending before the learned Magistrate, who is seized of the main trial itself, it would be appropriate if the learned Magistrate decides that application expeditiously. The application was also made for permission to travel to UAE between October, 2022 to December, 2022, which prayer obviously does not survive. However, the prayer for return of the passport is still not decided by the learned Magistrate.

3. Considering this situation, it would be appropriate if the issue of return of the passport is decided by the learned Magistrate first. In this view of the matter, the learned counsel for the Petitioner does not press this Petition at this stage and seeks liberty to pursue said application which is pending before the learned Magistrate.

He seeks directions to the learned Magistrate to decide said application within a reasonable period of two months.

4. Considering these submissions, the Petition is allowed to be withdrawn with liberty to the Petitioner to pursue his application pending before the learned Magistrate for return of his passport. The learned Magistrate shall decide said application in accordance with law within a period of two months from today.

5. With these directions, the Petition is disposed of.

(SARANG V. KOTWAL, J.)

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