



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 179 OF 2024

Mohdammad Mushtaq Ahmad
S/o. Mohammad Ali Shah

....Petitioner

VERSUS

The State Of Maharashtra And Another

.....Respondents

.....

Mr. M.P. Kale, Advocate for petitioner.

Mr. N.B. Patil, APP for respondent No. 1.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th FEBRUARY, 2024

ORDER :

1. Petitioner has lodged FIR against respondent No. 2 which is registered at C.R. No. 186 of 2022, with Kotwali Police Station, Parbhani for offences punishable under sections 408, 409, 419, 420, 468, 471, 499, 501 r/w. 34 of the Indian Penal Code.

2. The 2nd respondent filed application seeking permission to apply for passport as he wants to go for Haj pilgrimage. Said application is rejected by the Trial Court on the ground that respondent No. 2 has committed misappropriation and fraud against Government. Investigation of crime is pending and offence is of serious nature. Since investigation is not

completed presence of respondent No. 2 is necessary in India. If permission given to applicant to apply for passport then investigation of crime may get hampered and possibility is there that respondent No. 2 may remain absent during trial.

3. The 2nd respondent has challenged the order of Trial Court by filing Criminal Revision Application No. 87/2023, which is allowed by Sessions Court. Petitioner is aggrieved by this order.

4. Heard learned advocate for petitioner and learned APP for respondent-State. Perused the record.

^{6 pt}
5. Right to travel abroad is recognized as a fundamental right under Article 21 of Constitution of India, in *Maneka Gandhi vs. Union of India and Another* (1978) 1 SCC 248. Merely because offence is registered against the 2nd respondent that by itself is not sufficient to deny permission to him to apply for passport and to go on religious trip to Haj. Trial Court has erred in refusing permission to the 2nd respondent to apply for passport. Revisional Court has rightly allowed revision thereby allowing respondent No. 2 to apply to the concerned authority for passport. Revisional Court has passed a well reasoned order which cannot be faulted with. No case is made out by petitioner

to interfere in extra ordinary jurisdiction. Writ petition being of merits is dismissed.

[NITIN B. SURYAWANSHI, J.]