



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1414 OF 2024

Sacheen S/o Madhukar Mulay,
Age-57 years, Occu:Business,
R/o-"Saisharan Bungalow", Gut No.41,
Golwadi-Paithan Road, Aurangabad.

...PETITIONER

VERSUS

1) The Union of India,
Ministry of External Affairs,
Regional Passport Office,
Videsh Bhavan, Block No.G,
Plot No.C-45, Bandra Kurla
Complex, Bandra(E), Mumbai,

2) The Regional Passport Officer,
Regional Passport Office,
216-A, Manish Commercial Centre,
Dr. Annibasant Road, Worli,
Mumbai-400030.

...RESPONDENTS

...
Mr.A.N. Kakade Advocate for Petitioner.

Mr.S.S. Kulthe, Standing Counsel for Respondent Nos.1 and 2.

...

**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 29th FEBRUARY, 2024

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Issue notice to the respondents. Mr. Kulthe, learned
Standing Counsel waives notice for respondent Nos.1 and 2.

Heard both sides and perused the documents on record.

2. It is not in dispute that the petitioner has made application for renewal of his passport on 29th April 2023. The petitioner is also accepting that there are criminal cases pending against him i.e. R.C.C. No.573 of 2013 and Crime No.650 of 2022. It also appears that in respect of his renewal application the passport authority had made communication on 9th May 2023 and called upon him to produce documents which were in respect of Crime No.650 of 2022. The petitioner has given reply to the said communication but it appears that still no decision has been taken in respect of renewal of his passport.

3. Learned Advocate for the petitioner relies on the decision of the Hon'ble Apex Court in ***Vangala Kasturi Rangacharyulu vs. Central Bureau of Investigation (Criminal Appeal No.1342 of 2017, decided on 27th September 2021)***, wherein the Hon'ble Apex Court, after taking note of Section 6.2 of the Passport Act, observed that the passport authority cannot refuse the renewal of the passport on the ground of pendency of the criminal appeal. He further relies on the decision of this Court in ***Writ Petition No.384 of 2019 decided on 23rd August 2022 (Abbas***

Hatimbhai Kagalwala vs. The State of Maharashtra and another), wherein a note was taken of the fact that the petitioner therein was already issued passport and he was seeking renewal and then after relying upon the decision of the Hon'ble Apex Court in ***Criminal Appeal No.1342 of 2017(supra)***, this Court had asked the respondent authority to process the application of the petitioner therein. Section 6 of the Passport Act deals with refusal of passport, travel documents etc. Section 6.2 provides that subject to other provisions of the Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of subsection (2) of Section 5 on any one or more grounds and no other ground. Section 6(2)(f) of the Passport Act states that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India. However, it is to be noted that it is in respect of issuing a passport and not in respect of renewal of passport.

4. The situation in ***Abbas Kagalwala (supra)*** is identical to the present matter. There would have been a ban if there would not have been a passport in favour of the present petitioner. But the petitioner is already having a passport of which validity expired on 2nd September 2021, thereafter he had filed on-line

application for renewal on 30th June 2021 and it came to be extended / renewed from 19th April 2022 to 18th April 2023. Thereafter again on-line application for renewal was filed by the petitioner on 29th April 2023, which is not decided and therefore, the Petition deserves to be allowed. Hence the following order:-

ORDER

(I) The Respondents shall process the application of the petitioner for renewal of Passport without insisting for permission of the Court, where a criminal case is pending against the petitioner. If the petitioner is travelling abroad, then the petitioner would be required to seek permission from the Court where criminal case is pending.

(II) Decision shall be taken as observed above, within two (2) months.

(III) The impugned communication is quashed and set aside.

(IV) If as per procedure on-line application is required to be made, the same shall be made by the petitioner.

(V) The Writ Petition stands disposed of, accordingly.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE