



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

**CRIMINAL APPLICATION NO. 1472 OF 2025
IN APEAL/89/2012
WITH
CRIMINAL APPEAL NO. 89 OF 2012**

**LALIT JAGANNATH MALI
VERSUS
THE STATE OF MAHARASHTR AND OTHERS**

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Mr. Morampalle S. N., Advocate for Applicant
Mrs. U. S. Bhosale, APP for Respondent-State
Mr. Bhosale Ramdas B., Advocate for Respondent Nos.5 & 6

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**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 11/06/2025.

P. C. :

1. Leave to correct prayer clause.
2. By this application, the applicant seeks direction to respondent Nos.5 & 6 – Passport Issuing Authority to issue passport to the applicant and also seeks quashing and setting aside of the order dated 30/09/2024 passed by the learned Assistant Sessions Judge, Aurangabad in Criminal Appeal No.228 of 2011.
3. Applicant is convicted by the learned Assistant Sessions Judge, Aurangabad under Section 143, 427, 436 r.w. 149 of IPC and sentenced to suffer simple imprisonment for three months along with fine. Applicant challenged his conviction by filing Appeal

No.228 of 2011 before Sessions Court. The same is pending for adjudication. Present appeal is filed by the State seeking enhancement of the sentence imposed on the applicant. The appeal filed by the State is admitted by this Court on 09/02/2012. The applicant applied for fresh passport vide File No.PN-7060571339425. The said application is placed on hold by the respondent authorities citing the pendency of criminal case and conviction of the applicant. The applicant was asked to submit supporting documents i.e. permission of this court to travel abroad in terms of notification dated 25/08/1993 issued by the Ministry of External Affairs.

4. Applicant approached the Sessions Court seeking direction to the respondents to issue fresh passport. The learned Sessions passed following order :

“Perused the application and say. Heard both the learned Advocates. Arising out of judgment dated 17.08.2021, the appeal is filed before the honourable High Court. In such circumstances, it would not be proper to pass any order on this application. Hence, it is seen and filed.”

Signed

30.09.2024.

5. Heard learned advocate for the applicant, learned advocate for respondent Nos.5 & 6 and learned APP for State of Maharashtra.

Respondent Nos.2, 3 & 4 are the co-accused. Hence, they are formal party.

6. Learned advocate for the applicant, by relying on Sub-section 2(e) of Section 6 of the Passports Act, submits that refusal on the part of respondent Nos.5 & 6 to issue fresh Passport is contrary to the said section as Sub-section (e) of Section 2 and Section 6 provides that if the applicant is convicted for any offence involving moral turpitude and sentence in respect thereof to imprisonment is not less than two years, then the Passport Authority may refuse to issue fresh Passport. In the present case, since applicant is convicted and is sentenced to suffer simple imprisonment for three months, the Authorities are not justified in refusing to issue Passport to the applicant.

7. Learned Advocate for respondent Nos.5 & 6 placed reliance on a notification issued by the Central Government dated 25/08/1993.

8. Learned APP supported the impugned order.

9. It is opposite to consider the relevant provision of the Passports Act, 1967. The relevant section governing the case of the applicant is as follows :

“6. Refusal of passports, travel documents etc.:

(1) -----

(a) -----

(b) -----

(c) -----

(d) -----

(2) *Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of Section 5 on any one or more of the following grounds, and on no other ground, namely :-*

(a) ----

(b) ----

(c) ----

(d) ----

(e) *that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a Court of India for any offence involving moral turpitude and sentence in respect thereof to imprisonment for not less than two years.”*

The relevant provision of the notification relied upon by the learned advocate for respondent Nos.5 & 6 reads thus:

“Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of

an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of section 6 of the said Act, subject to the following conditions, namely :-

- (a) the passport to be issued to every such citizen shall be issued -*
 - (i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or*
 - (ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year.*

10. Admittedly, the applicant is convicted under Section 143, 427, 436 r.w. 34 of IPC and sentenced to suffer simple imprisonment for three months with fine, which is below two years as contemplated by Sub-section 2(e) of Section 6 of the Passports Act. The offences under Sections 143, 427, 436 r.w. 34 of IPC are not the offences involving moral turpitude.

11. After going through the relevant provisions, we are of the view that the applicant's case is covered by Sub-section 2(e) of Section 6

of the Passports Act and he is entitled for fresh passport. In the result, following order is passed.

ORDER

- A) Application is allowed.
 - B) Order dated 30/09/2024 passed by the learned Sessions Judge in Criminal Appeal No.228 of 2011 is hereby quashed and set aside.
 - C) Respondent Nos.5 & 6 are directed to issue fresh passport to the applicant within a period of four weeks from the date of uploading of this order.
 - D) Passport shall be issued initially for a period of five years. Thereafter, for each renewal, permission shall be obtained from this court.
 - E) At the time of final hearing of this appeal, applicant shall remain present either personally or through his advocate.
- Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)