

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1007 OF 2024

ANAND
SUDHAKAR
SUDAME

Mohammed Irfan Ghulam Hussain Tinwala .Applicant

Versus

Digitally signed
by ANAND
SUDHAKAR
SUDAME

The State of Maharashtra .Respondent

Date: 2025.07.28
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Mr. Karan Mehta, Ms. Asha K. Mehta, Mr. Nishant Shah,
Ms. Saloni Sadguru & Mr. Ashwin Pande i/b. Karan Mehta &
Associates, Advocates, for the Applicant
Ms. S. E. Phad, APP, for the Respondent – State
Mr. Dhage, API, EOW, Unit-II, Housing-2, Mumbai present

CORAM : S. M. MODAK, J.

DATE : 22.07.2025

P. C.

1. Heard Mr. Karan Mehta, learned Advocate for the Applicant and Ms. Phad, learned APP for the Respondent – State.
2. Learned Additional Sessions Judge, Mumbai C. R. No. 60 vide Order dated 22.07.2024 passed in Cri. M. A. No. 1011 of 2024 has rejected prayer of the Applicant for return of the passport permanently. The Order is on page No. 82. The passport is now lying with the EOW, Unit-II, Housing-2, Mumbai. It is deposited as per the condition imposed by the learned Additional Sessions Judge, City Civil & Sessions Court, Mumbai vide Order dated

23.12.2022. The condition No. 6 also mandates the Applicant to seek permission from the Court before leaving India. The submission is made that on more than one occasion, the Applicant is permitted by the Court to travel abroad and every time he has returned back. **The following are the Orders passed to that effect :-**

(a) The Order dated 21.03.2023 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Mumbai in M. A. No. 437 of 2023 in B. A. No. 2728 of 2022 wherein the Applicant was permitted to travel to USA. The Order is on page No.50.

(b) The Order dated 31.08.2023 passed by the learned Additional Sessions Judge, Sessions Court, Mumbai C. R. 60 in Cri. M. A. No. 1860 of 2023 wherein the Applicant was permitted to visit Mecca and Medina (Saudi Arabia). The Order is on page No. 55.

(c) The Order dated 12.03.2024 passed by learned Additional Sessions Judge, Sessions Court, Mumbai C. R. 60 in Cri. M. A. No. 294 of 2024 wherein learned Additional Sessions Judge refused to handover the passport permanently. The Order is on page No. 62.

(d) The Order dated 01.04.2024 passed by a Division Bench of this Court (Coram : Revati Mohite Dere & Manjusha Deshpande, JJ.) in Cri. W. P. (St.) No. 6595 wherein permission to travel abroad was granted. At that time, LOC was issued by the EOW, Unit-II, Housing-2, Mumbai was in force. The Order is on page No. 69.

(e) The Order dated 24.04.2024 passed by the same Division Bench in the same Petition wherein liberty was granted to the Applicant to challenge the condition of depositing of the passport.

(f) The final Order dated 07.05.2024 passed by the same Division Bench in the same Petition whereby it records deletion of LOC and again granting permission to apply for returning the passport permanently.

3. It is true that learned Additional Sessions Judge on two occasions has refused to handover passport permanently. The submission is that the Applicant has returned the passport after visiting foreign country and yet the trial has not started and one does not know when it will start. Now, the submission is that there is no need to retain the passport with the EOW, Unit-II, Housing-2, Mumbai considering the period already undergone.

4. Learned APP opposed the prayer on the ground that the offence is serious and there is an allegation of duping the First Informant and the amount involved is in crores. It is true that a Division Bench of this Court (Coram : Revati Mohite Dere & Manjusha Deshpande, JJ.) vide Order dated 01.04.2024 passed in Cri. W. P. (St.) No. 6595 has recorded the submission made by the concerned APP that except one case registered in the year 2022, there are no other cases registered against the Applicant.

5. The offences involved are under Sections 409, 419, 420, 465, 467, 468, 471 r/w. 34 and 120B of the Indian Penal Code, 1860 registered with the Byculla Police Station, Mumbai. It is registered on account of relationship in between the First Informant and the present Applicant as one of the Developers.

6. Reliance is placed on the Order dated 19.05.2022 passed in

Cri. Appeal No. 838 of 2022 in the case of Sanjay Kasliwal vs. The State of Maharashtra.

6. **Considering the facts and circumstances, I feel that the passport can be permanently returned to the Applicant.** It is for two reasons :-

(a) First, whenever he has traveled abroad, he has returned back.

(b) Situation which was prevailing at the time of grant of bail was different from the situation which is now prevailing. Yet charge is not framed.

7. The condition to obtain permission from the trial Court will remain as it is. Any how in future, if the Applicant wants to travel abroad, he will have to obtain permission from the Sessions Court. At that time, the concerned Court will ascertain about the necessity of going abroad.

8. Learned APP insisted that the Applicant may be directed to give the details of his immovable properties owned by him.

9. Learned Advocate for the Applicant invited my attention to the averments made in paragraph 22 of the Application. He has described four immovable properties. He claims to be co-owner of the properties at **Sr. Nos. 1, 3 & 4**. The property at **Sr. No. 2** stands in the name of his wife. It is true that except averments made in the Application, there are no supporting documents to show ownership of those properties. So instead of applicant in providing supporting documents, EOW, Unit-II, Housing-2, Mumbai can verify about ownership of the Applicant over the properties at Sr. Nos. 1, 3 & 4.

If they found that the Applicant is not the co-owner, they can move the Court. As of today, these details in paragraph 22 of the Application are sufficient. Hence, I am inclined to allow the Application. Hence, the Order.

O R D E R

- (i) The Orders dated 12.03.2024 and 22.07.2024 passed by learned Additional Sessions Judge, Sessions Court, Mumbai C. R. 60 in Cri. M. A. No. 294 of 2024 and Cri. M. A. No. 1011 of 2024 are quashed and set aside.
 - (ii) Condition No. (viii) of the Order dated 23.12.2022 passed by learned Additional Sessions Judge, City Civil & Sessions Court, Mumbai in B. A. No. 2728 of 2022 is waived.
 - (iii) The EOW, Unit-II, Housing-2, Mumbai is directed to handover the passport to the Applicant.
 - (iv) The EOW, Unit-II, Housing-2, Mumbai is at liberty to verify about the details and ownership of the properties of the Applicant described at Sr. Nos. 1, 3 & 4 of paragraph 22 of the petition. If they found that the Applicant is not the co-owner of the properties, they are at liberty to move this Court and then appropriate orders will be passed
10. The Application stands disposed of.

(S. M. MODAK, J.)