

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2439 OF 2025

Jitin Mothukuri

.Petitioner

Versus

The State of Maharashtra & anr.

.Respondents

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SUDHAKAR
SUDAME

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Mr. Janay Jain i/b. Mr. Prem Kumar R. Pandey a/w. Mr. Pavan Pandey, Ms. Sneha Mishra, Mr. Devendra Agarwal, Ms. Kajal Mishra, Mr. Rishabh Jain and Ms. Nikita Shukla, Advocates, for the Petitioner

Ms. G. S. Rao, APP, for Respondent No. 1 – State

Mr. S. K. Halwasia a/w. Mr. S. S. Halwasia, Advocate, for Respondent No. 2

Mr. Harshwardhan Pawar a/w. Mr. Satyam Nimbalkar, Advocates, for the Intervenor/First Informant

Mr. N. S. Yemul, ASI, Paud Police Station, Pune (Rural) present

CORAM : S. M. MODAK, J.

DATE : 25.07.2025

P. C.

1. Heard Mr. Jain, learned Advocate for the Petitioner, Ms. Rao, learned APP for Respondent No. 1 – State and Mr. S. K. Halwasia, learned Advocate for Respondent No. 2.

2. This Petition is filed on the background that learned Additional Sessions Judge, Pune while passing the Order dated 12.11.2024 passed in S. C. No. 282 of 2020 had directed the Passport Authorities to process with the renewal request but without

asking for Court permission. On this background when the Petitioner moved the Passport Authority vide their letter dated 21.02.2025, they requested the Petitioner to obtain the Court's permission on the basis of the Government Resolution dated 25.08.1993. The present Petitioner is facing the prosecution for the offences punishable under Sections 354 354A, 354B, 376 & 511 of the Indian Penal Code, 1860. In fact, here the trial is pending so it will not fall within the category of convicted person.

3. An Affidavit-in-reply filed on behalf of Respondent No. 2 is taken on record. In fact, both of them relying upon the observations made in the Oral Judgment dated **08.04.2024** passed in the case of ***Cyrus Keki Balsara vs. The Union of India & Anr.*** in ***W. P. (L) No. 1576 of 2024***. A Division Bench (***Coram : G. S. Kulkarni & Firdosh P. Pooniwalla, JJ.***) has explained the law on this aspect and permission is required or not required. They are in consensus to remand the matter to the Court of the learned Additional Sessions Judge. The law as interpreted in ***Cyrus Keki Balsara (Supra)*** is permission of the Court is required, if the trial is pending. The understanding by the trial Court is not correct. The matter needs to be remanded. Hence, the Order.

O R D E R

- (i) The Petition is allowed.
- (ii) The Order dated 12.11.2024 passed by learned Additional Sessions Judge, Pune in S. C. No. 282 of 2020 is quashed & set aside.
- (iii) The trial Court is directed to hear both the parties on the basis

of the Application and decide the request made on merits and in accordance with law.

4. Later on, Mr. Pawar, learned Advocate for the Intervenor/First Informant appeared and submitted that he was desirous of filing Intervention Application and Vakalatnama but now, the matter is already disposed of. He is at liberty to appear before the trial Court.

(S. M. MODAK, J.)