

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2532 OF 2025

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Kamlesh Jethmal Shah

Age : 45 Years, Indian Inhabitant,
Occupation : Business, Residing at : 374,
37th Floor, Siddesh Jyoti E & F Wing CHS,
Balaram Street, Grant Road (East),
Mumbai – 400 007, Maharashtra.

...Petitioner

Versus

1. **The State of Maharashtra**
(Through D.B. Marg Police Station)
2. **The Passport Authority**
(Mumbai Regional Office)

...Respondents

Mr.Aditya R.Parmar a/w Ms.Zainab Khan, Ms.Shivani Dixit and Mr.Subhash Hulyalkar:-	Advocates for Petitioner.
Mr.Gauri S. Rao:-	APP for Respondent No.1 -State.
Mr.Deepak Hol – PSI:-	Dr.D.B.Marg Police Station.

CORAM : S. M. MODAK, J.

DATE : 1st AUGUST 2025

P. C. :-

1. Heard learned Advocate for the Petitioner and learned APP.
2. Though the Passport Authority – Respondent No.2 has filed Vakalatnama, today no one is present. The present Petitioner is the

Accused in a case pending before the Court of Judicial Magistrate First Class – Girgaon. The offence is under Section 341 read with 34 of the Indian Penal Code, 1860 (“IPC”). He applied for renewal of the passport before the trial Court. However, it was rejected as per the order dated 16th January 2025. Learned trial Judge has referred the observations in case of *Abbas Hatimbhai Kagalwala V/s. State of Maharashtra and Anr.*¹ and opined that “*permission of the Court is not necessary for renewal of the passport.*”

3. The contention is the trial Court’s opinion that the ‘*permission is not required*’ is not correct because in case of *Abbas (supra)*, the observations were not to that effect. Learned Advocate has pointed out to me the observations therein. These observations are made on the basis of observations of Hon’ble Supreme Court made in Criminal Appeal No.1342 of 2017 dated 27th September 2021. According to him, the trial Court was wrong in applying the ratio in case of *Abbas (supra)* because the facts are different.

4. In case of *Vangala Kasturi Rangacharyulu V/s. Central Bureau of Investigation*², the Hon’ble Supreme Court has opined that “*renewal of the passport cannot be refused on the ground of pendency of Criminal*

1 Writ Petition No.384 of 2019 : 23rd August 2022 : Bombay High Court

2 Criminal Appeal No.1342 of 2017 : 27th September 2021 : Supreme Court of India

Appeal.” The Hon’ble Supreme Court has dealt with the conviction in that matter and it was for less than two years i.e. for one year. Considering the above set of facts, a direction was given by the Hon’ble Supreme Court to renew the passport.

5. According to him, if the trial is pending and he is not convicted, the parameters for refusal of the passport (about conviction) will not be applicable to this case. As per the provisions of Section 6(2)(f) of the Passports Act, 1967, if the criminal case is pending, the passport can be refused. However, as per the Notification dated 25th August 1993 bearing No.G.S.R. 570(E) issued by the Ministry of External Affairs, the Passport Authorities can grant the passport.

6. Learned APP has pointed out to me the various objections taken by the Passport Office in the letter dated 24th February 2025. **It is for the Petitioner to comply with those conditions.**

7. In view of that, following order is passed:-

ORDER

- (i) The Petition is allowed.
- (ii) **The Regional Passport Office – Respondent No.2 to renew the passport of the Petitioner for a period of 5 years subject to fulfillment of the conditions and as per the Rules.**

- (iii) This direction is applicable to the concerned case. If other cases are there, the Petitioner has to seek separate direction from the concerned Court.
 - (iv) **In case of leaving the country, the Petitioner to take prior permission of the Court.**
8. With these observations, **the Petition stands disposed of.**

[S. M. MODAK, J.]