

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

**INTERIM APPLICATION NO. 1172 OF 2025
IN
CRIMINAL APPEAL NO. 261 OF 2014**

Babanrao Shankar Gholap

...Applicant

Vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Santosh S. Musale	Advocate for the Applicant
Ms. R. S. Tendulkar	APP for the Respondent-State
Mr. D. P. Singh	Advocate for the Respondent No. 2

CORAM : S. M. MODAK, J.

DATE : 13th JUNE 2025

P. C. :-

1. Heard learned Advocate Shri Musale for the Appellant-Convicted accused, learned APP and learned Advocate Singh for the Respondent No. 2-Passport Authority.

2. The present Appellant is convicted for the offence punishable under Section 13(1)(e) read with 13(2) of the Prevention of Corruption Act. The sentence is as follows:-

SEEMA
KSHITIJ
YELKAR

Digitally signed
by SEEMA
KSHITIJ YELKAR
Date: 2025.06.18
17:29:25 +0530

SEEMA
KSHITIJ
YELKAR

Digitally signed
by SEEMA
KSHITIJ YELKAR
Date: 2025.06.18
17:27:22 +0530

Seema

(a) The rigorous imprisonment for three years.

(b) Fine of Rs. 1,00,000/-.

(c) In case of default, further rigorous imprisonment for three months.

3. Learned Advocate Mr. Musale submitted that there is Misc. Application No. 1645 of 2019 pending before the Trial Court for recovery of the amount of disproportionate assets.

4. The Appellant was holding the passport. It expired on 04.07.2022. That is why permission is sought for renewal of the passport. It is true apart from the present matter, there are other offences pending against the present Appellant in two cases. He has sought no objection for renewal from the concerned Court. They are :- CC No. 1091/Misc/2025 by the Court of the Additional Chief Judicial Magistrate and by the Court of the Special Judge, Nashik in Sessions Case No. 272 of 2013. According to Mr. Singh, there are also other offences pending.

5. According to learned APP Shri Holambe-Patil, the permission is not required from the Court. He placed reliance on the observations of the Division bench of this Court in case of **Abbas Hatimbhai Kagalwala**

Vs. The State of Maharashtra and Anr., in Writ Petition No. 384 of 2019, dated 23.08.2022. The said order is passed on the basis of the observation of the Hon'ble Supreme Court in case of *Vangala Kasturi Rangacharyulu Vs. Central Bureau of Investigation* in Appeal No. 1342 of 2017 dated 27.09.2021.

6. Learned Advocate Mr. Singh is fair enough to assist the Court by placing the reliance on the following documents:-

- (a) Observations in case of *Cyrus Keki Balsara Vs. Union of India and Anr.*¹
- (b) Observations in case of *Pilaji Sursinh Jadhavrao Vs. Regional Passport Office, Pune* passed by the Division bench of this Court in Writ Petition No. 14116 of 2024, dated 14.01.2025 and
- (c) Notification dated 25.08.1993 issued by the Ministry of the External Affairs.

7. With his assistance, I have also read the provisions of Section 6 of the Passports Act.

8. After reading all the judgments and provisions of law, the following principles emerge:-

- (i) The clause mentioned in Section 6 (2) embargo on the

1 2024 SCC Online Bom 1085

powers of the Passport Authority to issue passport.

(ii) Clause No. (e) deals with conviction for two years and above within preceding five years, if Criminal case is pending.

(iii) It is true right to travel is held as fundamental right by the Hon'ble Supreme Court in case of *Maneka Gandhi Vs. Union of India*². The Ministry of the External Affairs has issued notification dated 25.08.1993. It empowers to issue the passport to every citizen when the criminal case is pending.

9. In this case, as said above the conviction is for three years. It means the embargo under Clause(e) will be applicable. According to learned Advocate Shri Musale, the case will fall under Section 6(2)(f) because the appeal is pending and the order of the conviction is under challenge.

10. Considering the above circumstances, I am inclined to allow the application. There can be condition to seek permission of the Court when the Applicant/Appellant intends to leave India. For initial

2 AIR 1978 SC 597

period, I am granting permission for three years. Hence, the order:-

ORDER

- (i) The Applicant/Appellant is permitted to apply for renewal of the passport before the concerned authority.
 - (ii) The concerned authority is at liberty to decide that application as per the Law and Rules.
 - (iii) The Applicant/Appellant is supposed to take permission from the other Court wherein the cases are pending against him.
 - (iv) The Applicant/Appellant is directed to take permission from this Court before leaving India.
11. Interim Application is accordingly disposed of.

[S. M. MODAK, J.]