

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1788 OF 2025

Sagar Pradeep Oak
Age about 43 years, Occ-Service,
Having Address at: 3804 Tower
6 Crescent Bay, Jerbai Wadia Road,
Near Mahatma Phule Education Society,
Bhoiwada, Mumbai, Mumbai City,
Maharashtra, 400012

... Petitioner

V/s.

1. State of Maharashtra,
By and through office of the
Government Pleader Bombay
High Court, Cr. A.J. Bombay
Through, Pali Police Station
Raigad Maharashtra
C.R. No. 02/2010

2. Union of India
Through the Regional Passport
Authority of India, Having Office
at Mumbai, Maharashtra

... Respondents

Mr. Niranjana Mundargi, Counsel a/w Ms. Keral Mehta, Mr. Tushar Ajinkya,
Mr. Sahil Bijliwala, Adv. Bhavai Shah i/b ThinkLaw Advocates for Petitioner.
Mr. Amit A. Palkar, A.P.P. for the State.
Ms. Neha Patil, SPP for Respondent No. 2.

WITH
CRIMINAL WRIT PETITION NO. 5554 OF 2025

Brahma Sheo Bharat Mall
Age 59 years, Occ-Service,
R/a. Flat No. 701, Tower-10,

Sea Breeze, Near Palm Beach
Road, Sector 16, Nerul-16
Nerul, Pin Code - 400706

... Petitioner

V/s.

1. The State of Maharashtra,
(At the instance of Nerul Police Station)

2. The Passport Authority of India
Having office at Plot No. C-45
G Block, Videsh Bhavan,
Bandra-Kurla Complex
Bandra (East), Mumbai-400051.

... Respondents

Ms. Yugandhara Khanvilkar a/w Ms. Swapna Kode, Ms. Divya kakkar,
Advocate for Petitioner.

Mr. Amit A. Palkar, A.P.P. for the State.

Ms. Manisha Jagtap, Adv. for Respondent No. 2.

WITH

CRIMINAL WRIT PETITION NO. 5555 OF 2025

Brahma Sheo Bharat Mall
Age 59 years, Occ-Service,
R/o. Flat No. 701, Tower-10,
Sea Breeze, Near Palm Beach
Road, Sector 16, Nerul-16
Nerul, Pin Code - 400706

... Petitioner

V/s.

1. The State of Maharashtra,
(At the instance of Nerul Police Station)

2. The Passport Authority of India
Having office at Plot No. C-45
G Block, Videsh Bhavan,

Bandra-Kurla Complex
Bandra (East), Mumbai-400051.

... Respondents

Ms. Swapna Kode a/w Ms. Yugandhara Khanvilkar, Ms. Divya Kakkar,
Advocate for Petitioner.
Mr. Ajay Patil, A.P.P. for the State.
Ms. Manisha Jagtap, Adv. for Respondent No. 2.

CORAM : **A. S. GADKARI AND
RANJITSINHA RAJA BHONSALE, JJ.**

RESERVED ON : **19th NOVEMBER 2025.**

PRONOUNCED ON : **29th APRIL 2026.**

JUDGMENT:- [Per : RANJITSINHA RAJA BHONSALE, J]

1) The Hon'ble Supreme Court in the case of *Mahesh Kumar Agarwal Vs. Union of India & Anr* reported in 2025 SCC OnLine SC 2887 has observed that:-

“2. Liberty, in our constitutional scheme, is not a gift of the State but its first obligation. The freedom of a citizen to move, to travel, to pursue livelihood and opportunity, subject to law, is an essential part of the guarantee under Article 21 of the Constitution of India. The State may, where statute so provides, regulate or restrain that freedom in the interests of justice, security or public order but such restraint must be narrowly confined to what is necessary, proportionate to the object sought to be achieved, and clearly anchored in law. When procedural safeguards are converted into rigid barriers, or temporary disabilities are allowed to harden into indefinite exclusions, the balance between the power of the State and the dignity of the individual is disturbed, and the promise of the Constitution is put at risk.”

2) By this common Judgment, we intend to address the issue and make certain suggestions in the form of guidelines for renewal/re-issue of Passports to the citizens of India against whom criminal proceedings have been filed and are pending. In the recent past, we have come across with various matters, wherein the citizens by way of an application approach the concerned Court, in whose jurisdiction the criminal action/prosecution is initiated, to seek a NOC/permission to renew the passport. This is, irrespective of the fact whether cognizance is taken or not, the nature of offence alleged, the seriousness and gravity of the offence or the role/overt act assigned to the individual accused. We have noticed that, many a times the criminal proceedings are only filed, without notice or summons issued. In some cases even the cognizance of the criminal complaint/proceeding is not taken by the concerned criminal Court still the applicants/accused are required to make the application for NOC/permission to the concerned Court. This entails in unnecessary delay and inconvenience to the concerned Applicant and consumes significant judicial time of the Court.

3) By these Petitions, filed under Article 226 of the Constitution of India, the Petitioners have inter alia sought/prayed for the following reliefs-

- (i) Issue NOC to the passport authority issue the passport of the Petitioner for a period of 10 years, subject to the Petitioner satisfying other requirements under the Passports Act and Rules or allow the passport to be renewed.
- (ii) Direct learned Trial Court to pass orders for renewal of

the passports in a time bound manner

- (iii) Allow the Petitioner to travel abroad with directions/conditions to furnish his detailed itinerary to the Trial Court.

4) Heard the respective Advocates appearing for the Petitioners, Mr. Amit Palkar, APP in Criminal Writ Petition No. 1788 of 2025 and Criminal Writ Petition No. 5554 of 2025 for Respondent No.1, Mr. Ajay Patil, APP in Criminal Writ Petition No. 5555 of 2025, Ms. Patil, SPP for Respondent No.2 in Criminal Writ Petition No. 1788 of 2025 and Ms. Manisha Jagtap for Respondent No. 2 in Criminal Writ Petition No. 5554 of 2025 and Criminal Writ Petition No. 5555 of 2025. Perused the entire record.

5) Record in Writ Petition No. 1788 of 2025 indicates that, the Petitioner is an accused in RCC No. 11 of 2012 pending on the file of learned J.M.F.C., Pali, Taluka Sudhagad, District Raigad, filed under Sections 420, 406 and 403 read with 34 of the Indian Penal Code.

5.1) Petitioner, therein filed an Application below Exh-88 before the learned J.M.F.C., Pali, Taluka-Sudhagad, District-Raigad seeking a no objection for renewal of his passport as the Respondent No.2 i.e. the Regional Passport Authority vide its communication/Acknowledgment letter dated 19th February 2025, kept the Petitioner's application "on hold". The trial Court, by its Order dated 3rd February 2025, rejected the Application on the ground that, permission/NOC of the Court is not required for

renewal of a passport and that, it is the right of the person to get renewed his existing passport. It is observed that, if the Petitioner is traveling abroad, then the permission/order of the Court would be required for the renewal of the passport. The Trial Court, relied upon the order of this Court passed in the case of *Abbas Hatimbhai Kagalwala V/s State of Maharashtra in (OS) Writ Petition No. 384 of 2019*.

5.2) That, the Petitioner requires his passport to be renewed for the purposes of securing his employment. Due to the non-renewal of the passport, the Petitioners ability to travel for work is restricted, which adversely affects the Petitioners job prospects and security, thereby there is a threat to his livelihood. In the aforementioned circumstances, the Petitioner prayed that the required NOC be issued and the Respondent No.2 be directed to renew the Petitioners Passport for a period of 10 years, subject to the Petitioner satisfying the requirements under the Passport Act and rules thereunder.

6) Record in Writ Petition No. 5554 of 2025 and Writ Petition No. 5555 of 2025 indicates that, the Petitioners therein are accused in Summons Warrant Case No.523 of 2018 and Summons Warrant Case No. 524 of 2018 respectively pending on the file of learned 22nd Additional Chief Judicial Magistrate Court at Andheri, Mumbai, under Sections 405, 406, 420, 34 read with 120-B of the Indian Penal Code. The cases have

been filed by M/s Proactive Crewing & Offshore Services Pvt Ltd and M/s Advent Marine and Shipping Services Pvt Ltd respectively. That, the Petitioners have not been served with any summons or the complaint in any manner and/or form whatsoever.

6.1) That, the Petitioners are permanent residents of India and both work in Cyprus. That, the Petitioners Alien Registration card, (ARC) which are work visa are expiring on 23rd November 2025. That, it is the requirement that, the applications for renewal of ARC or work visa were to be submitted three months prior to the expiry i.e renewal applications were required to be done by 23rd August, 2025, as the passports expiring on 23rd May 2026. Therefore, the Petitioners applied for renewal of ARC/work visa in Cyprus.

6.2) Further, to renew the ARC, the Petitioners passport is required to be valid for over 6 months from the date of entry. As the Petitioners passport was nearing expiry, the Petitioners submitted their passports for reissuance on 22nd July, 2025.

6.3) That, during the police verification, the Petitioners were informed and became aware of the criminal proceedings filed against them. That, the Petitioners now do not have a passport in hand.

6.4) That, the petitioners approached the learned 22nd Additional Chief Judicial Magistrate Court at Andheri, Mumbai seeking grant of

permission to renew the passports. That, no orders have been passed thereon till date. That, the criminal prosecution against the Petitioners are filed in the year 2018. That, the matters are still at the stage of verification and cognizance of the same is not yet been taken.

6.5) That, as the deadline for applying for renewal of passports lapsed on 23rd August 2025, the employer reminded the Petitioners to initiate the required procedure. That, though the criminal cases are of the year 2018, the police had granted a police clearance certificate in the year 2022. That, in the year 2022, no objection was taken. The Petitioners have regularly and extensively travelled during the said period 2018 to 2022.

6.6) That, on 23rd August 2025, the Petitioner's applications of renewal of ARC should have been submitted, but could not be submitted as the petitioners passports were not issued. That, it is the imperative for Petitioner to get the Passport renewed.

6.7) That, no cognizance of the criminal matter has been taken. That, the Petitioners have applied for permission on 19th August 2025. That, the learned trial court orally was opined that as the cognizance has not been taken of the criminal proceedings, no permission was required. The Petitioners have not got a hearing/reliefs in the matter.

6.8) That, the Petitioners require the renewal for the purposes of their employment and due to the non-renewal of the passports, the Petitioners

ability to travel for work is restricted, which adversely affects the petitioners job prospects and security, and thereby a threat to their livelihood.

6.9) In the aforementioned circumstances, the Petitioners have prayed for renewal of the passports.

7) For the present cases, it is necessary that the provisions of the Passport Act 1967 are considered along with the relevant judgments passed by the Hon'ble Supreme Court and this Court in cases seeking reissue/renewal of passport.

8) The object of the Passports Act, 1967 (said Act) is to provide for the issue of passports and travel documents, to regulate the departure from India of Citizens of India and other persons and for matters incidental or ancillary thereto. Section 4 of the said Act provides for different types/classes of passports (ordinary, official and diplomatic) and travel documents (emergency certificate and certificate of identity) which may be issued under the said Act. Section 5 (1), 5(1A) and 5(2) of the said Act provide for applications for passports, travel documents and the manner in which the applications are to be made and the procedure for the issue of a passport or travel document.

9) Under section 5(2) of the said Act, the passport authority, after making an inquiry may either issue a passport under section 5(2)(a) or 5(2)(b) or refuse to issue a passport under section 5(2)(c). Section 5(3) of the

said Act, provides that, brief reasons for the refusal of issuing the passport or travel document or issuing the passport under section 5(2) (b) or 5 (2) (c) shall be made in writing, and provided to the applicant, on demand, unless the passport authority is of the opinion that, it will not be in the interest of the sovereignty, integrity, security of India or the friendly relations of India with any other country or in the interest of general public to furnish the reasons.

10) Section 6(1) of the said Act provides for the grounds for refusal to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of Section 5 of the said Act in respect of the application, made on any one or more of the following grounds and no other, namely:-

(a) That, the applicant may engage in activities in such country which are prejudicial sovereignty and integrity of India;

(b) the presence of such an applicant in such a country may or is likely to be detrimental to security of India;

(c) That, the presence of the applicant in such a country may or likely to prejudice the friendly relations of India with that or any other country; or that

(d) in the opinion of Central Government the presence of the applicant in such a country is not a public interest.

11) Section 6(2) of the said Act provides that, subject to the other provisions of the Act, the passport authority shall refuse to issue a passport or travel document under clause 5(2)(c), on any one or more on the grounds specified therein and on no other ground. Under clause 6(2) the following grounds are specifically mentioned i.e (a) the applicant is not a citizen of India; (b) the applicant may or is likely to engage in activities outside India which are prejudicial to the sovereignty and integrity of India; (c) the departure of applicant from India may or is likely to be detrimental to the security of India; (d) the presence of the applicant outside India may or is likely to prejudice the friendly relations of India with the foreign country; (e) the applicant at any time during the period of 5 years immediately preceding the date of application has been convicted by a Court in India for an offence involving moral turpitude and sentence in respect thereof to imprisonment for not less than 2 years; (f) proceedings in respect of an offence alleged to have been committed by the applicant are pending before the criminal court; (g) a warrant or summons for appearance has been issued against the applicant or an Order prohibiting the departure of applicant from India has been passed by a Court; (h) the applicant has been repatriated and has not reimbursed the expenditure which has been incurred in connection therewith; (i) in the opinion of Central government the issue of the passport or travel documents to the applicant is not in public interest.

12) For the purposes of present case, section 6(2) (e) and 6(2)(f) are relevant.

Under Section 6(2) (e) the passport authority has the power to refuse the application for issuance of passport if the applicant at any time during the period of 5 years immediately preceding the date of the application has been convicted by a Court for an offence involving moral turpitude and sentenced for a term of imprisonment for not less than 2 years. In other words, if the order of conviction and sentence, is passed more than 5 years before immediately preceding the date of application or being within a period of 5 years is for a sentence of imprisonment of less than 2 years, then, in that event the reasons for refusal under section 6(2)(e) would not be applicable and available. Further, the section provides that the offence should be a one involving moral turpitude. Under Section 6(2), the other reason specified and available for the passport authority, to refuse an application under Section 5(2)(c) is that a proceeding in respect of an offence is alleged to have been committed by applicant is pending before a criminal court. In our opinion, the grounds for refusal of a passport are restricted, keeping in mind that the right to travel is an essential and integral part of the right to life and personal liberty under Article 21 of the Constitution of India. Further more, it is pertinent to note that, the power and grounds for refusal are again limited and specifically being made subject to the other provisions, including section 22 and the notifications

issued, in public interest, under section 22 of the said Act. The embargo under Section 6(2)(f) of the said Act is for sure diluted and watered down by the Notification dated 25st August 1993 and Office Memorandum dated 10th October 2019. The effect of the said notification and office memorandum is referred to, discussed and considered by us in some details hereinafter.

13) Section 7 of the said Act provides for duration of travel document. Under section 7 of the said Act, a passport or travel document shall unless revoked earlier continue to be in force and valid for such period as may be prescribed in the said passport. The proviso to section 7, stipulates that, the passport or travel document may be issued for shorter period than the prescribed periods if the applicant so desires, or if the passport authority considers it necessary to do so, for the reasons, which are to be communicated in writing to the applicant. Section 8 provides for extension of the period of the passport when the passport is issued for a shorter period than the prescribed period under Section 7 of the said Act. Any variation in the period or duration of the passport or travel document is within the authority and power of the passport authorities under the said Act.

14) Section 10 provides for variation, impounding and revocation of passports and travel documents. Section 10(1) provides for variation or

cancellation of any endorsement on a passport or travel document having regard to section 6(1) or any notification issued under Section 19 of the said Act. The Passport Authority, may with the previous approval of the Central Government, vary or cancel conditions, other than the prescribed conditions subject to which the Passport or travel document is issued. The passport authorities under section 10 of the said Act, have the power to call upon the holder of the passport or travel document, after notice, to deliver the passport or travel document to the said authority. Under section 10(2) passport authority, on an application of the holder of a passport or travel document with the previous approval of the Central Government has power to vary or cancel the condition of the passport or travel document. Under section 10(3) of the said Act, the passport authority has the power to impound, cause to be impounded or revoke the passport or travel document, if the authority is satisfied that, the holder of the passport is in wrongful possession thereof or that the same was obtained by suppression of material information or on wrong information provided by the holder of the passport or travel document or any other person on his behalf. The passport or travel document can also be impounded or revoked in the interest of sovereignty, integrity, security of India and the friendly relation of India with other countries or in the interest of general public. The passport or travel document can further also be revoked or impounded if, the holder of the passport or travel document has, at any time after the

issue of the passport or travel document, been convicted for an offence involving moral turpitude and sentenced in respect thereof to imprisonment not less than two years or if criminal proceedings are pending before a criminal Court in India against the holder of the said passport or travel document. The passport or travel document can also be impounded or revoked, if the conditions of the passport or travel document are contravened or if the holder has not complied with the notice issued under Section 10 (1) of the said Act. The passport or travel document may be impounded or revoked, if the Passport authority is satisfied that a warrant or summons for appearance or warrant of arrest or prohibitory orders restraining departure from India have been made by a Court.

15) Section 10(5) of the said Act, provides that, if any order is made under Section 10(1) or 10(3) of the said Act, the passport authority is to record reasons in writing and provide a brief statement of the reasons to the holder on the passport or travel document on demand, unless the Passport Authorities is of the opinion that, it is not in the interest of sovereignty, integrity, security, friendly relation of India with foreign country or in the interest of general public to do so.

16) Under Section 10(7) of the said Act, the court convicting the holder of passport or travel document of any offence under the said act or rules made thereunder has the power to revoke the passport or travel

document. The said revocation shall become void if the conviction is set aside on appeal or otherwise. Under Section 10 (8) of the said Act, the Appellate Court or the High Court when exercising its power of revision may also make an order of revocation as provided under Section 10(7) of the said Act. Sections 10(7) and 10(8) are the only provisions of the said Act which confer the authority on the court to revoke the passport under the conditions stipulated therein i.e. for any offence under the said Act or rules made thereunder. On an order revocation being passed, the holder, without any delay, is bound to surrender the passport or travel document to the concerned authority.

17) Section 10 (A) of the said Act, provides that, without prejudice to the generality of the provisions contained in section 10 of the said Act, if the Central Government or any designated officer is satisfied that the passport or the travel document is likely to be impounded or caused to be impounded or revoked under section 10(3)(c) and it is necessary in public interest to do so, it or he may with immediate effect order suspension of the document or pass such an order so as to make the passport or travel document invalid with immediate effect.

18) Under section 22 of the said Act, if the Central Government is of the opinion that, it is necessary or expedient in public interest, it may, by a notification in the official gazette, exempt any person or class of persons

from the operation of all or any of the provisions of the said Act or rules made thereunder and may if required cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions. Clearly, the notifications, under Section 22 of the said Act are issued in public interest, to assist and in aid and for the benefit of the general public/society or to ensure implementation of international conventions or for confirming to international practice and usage.

19) Rule 12 of the Passport Rules, 1980 provide for duration of passport or travel document. Rule 12 clearly stipulates that, an ordinary passport for person other than children below the age of 15 year containing 36 pages or 60 pages shall be in force for a period of 10 years from date of its issue. Under Rule 12(1-A) an ordinary passport for the child below the age of 15 years containing 36 pages shall be enforced for a period of 5 years from the date of its issue or until the child attain the age of 15 years whichever is earlier. Perusal of the Rule 12 of the Passport Rules, 1980, makes it clear that passport for persons other than children below the age of 15 years, shall be in force for a period of 10 years, from the date of its issue, thereby meaning that the passport is granted in blocks/period of 10 years. Under the rules all qualifying applicants are entitled to have passport renewed for at least ten years unless otherwise directed by the Court .

20) The Notification no. GSR 517(E) dated 25st August 1993, is issued under section 22 of the said Act. The said notification provides for issuance of passport to applicants who have criminal proceedings pending against them and whose application would therefore attract provision 6(2) (f) of the said Act. It is pertinent to note that, the Notification is issued in public interest and provides that citizens against whom proceedings in respect of an offences allegedly committed by them are pending before a criminal court and who produce orders from the court concerning permitting them to depart from India are exempted from the operation of provision of section 6 (2) (f) of the said Act.

21) The Office Memorandum of Ministry Of External Affairs, dated 10th October 2019, (OM) reiterates the earlier notification dated 25th August 1993. The OM in para 3, provides that applicants may be refused passports only on grounds mentioned under Section 6(2) of the Passports Act, 1967. The OM specifically records that, the notification was introduced to give relief to such applicants against whom criminal proceedings are pending before any Court of law in India but who may need to travel abroad for some urgent business. The OM in para 5, provides for instructions which may be adopted while processing the passport applications in respect of those applicants who may have criminal proceedings pending before a criminal court in India. The following is provided:-

(i) The provisions of GSR 570(E) may be strictly applied in all cases. GSR 570(E) is a statutory notification and hence forms part of the Rules. It is to be noted that as per Section 5(2) of the Passports Act, 1967, the passport authority shall by order in writing take a decision whether to issue or refuse a passport, after making such inquiry, if any, as it may consider necessary. Moreover, Section 7 of the Passports Act, provides that a passport or travel document may be issued for a shorter period than the prescribed period if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period. Rule 12 of the Passport Rules, 1980 only states that an ordinary passport shall be in force for a period of 10 years which implies that an ordinary passport cannot be issued beyond a period of 10 years.

(ii) Whenever an applicant is submitting a 'No Objection Certificate' (NOC) from a Court of law in India, the applicant should be advised that undertaking as per GSR 570(E) should be complete in all respects and should mention all the pending criminal cases against the applicant. The undertaking will have a note clearly stating that if any false or incomplete information is submitted by an applicant, then his passport application is liable to be rejected.

(iii) Extant instructions clearly lay down that such applications should be processed on pre-Police Verification (PV) mode. "Pre-PV" would be mandatory in all cases of applications submitted with GSR 570(E) to ensure that the undertaking submitted by the applicant is properly matched with the criminal cases mentioned in the Police Verification Report (PVR). Hence, such applications should not be accepted under Tatkaal nor such applications be moved to "post-PV" mode or "No-PV" mode without proper justification and approval to be recorded in writing.

(iv) If an undertaking is incomplete or misleading and the applicant is found to have suppressed details of other criminal cases against the applicant, a Show Cause Notice should be issued to the applicant and action initiated against that applicant as per provisions of Section 12 of the Passports Act, 1967. If information that an applicant has obtained a passport by making a false submission or by suppressing material facts comes to light after the passport has been issued, the passport may be impounded or revoked as per provision of Section 10(3) (b) of the Passports Act, 1967, after following the due procedure.

(v) In case where the first Police Verification(PV) is 'Adverse',

secondary police verification may be generated. While a secondary PV is generated, it should be accompanied by a detailed letter seeking clarification regarding the pending criminal cases against the applicant and the status of these cases. Apart from generating secondary PVR, the passport officers may, if considered necessary call for discreet enquiry through the police authorities by sending the court order submitted by the applicant or even seek verification from other government agencies/departments, as the case may be.

(vi) In case where the secondary Police Verification is also 'Adverse', it may be examined whether the details brought out in the police report match the undertaking submitted by the applicant. It may be noted that mere filing of FIRs and cases under investigation do not come under the purview of Section 6(2)(1) and that criminal proceedings would only be considered pending against an applicant if a case has been registered before any Court of law and the court has taken cognizance of the same.

(vii) If the details given in the police report and the undertaking submitted by the applicant are matching, then the 'No Objection Certificate' issued by a Court of law submitted by the applicant would take precedence over any 'Adverse' report submitted by the police. In such cases, the 'Adverse' report may be overruled with the written approval of the Passport Officer.

(viii) If the details given in the PVR and the undertaking submitted by the applicant are at variance, then a notice may be issued to the applicant calling for clarification and advising the applicant to submit details of all pending criminal cases as well as to submit a revised No Objection Certificate (NOC).

(ix) If it is brought to the notice of the authority that an applicant has criminal proceedings arrayed against applicant before several courts of law, then the applicant may be advised to get NOC from all the concerned court(s). Normally, the Court Order would make a mention of the cases pending against the applicant as well as the prayer made by the applicant. This may be examined along with the undertaking submitted by the applicant and complaints or other court orders, if any, that may have been received against the applicant.

(x) It may be noted that GSR 570(E) only exempts an applicant from the operation of Section 6(2)(f) and none of the other sub-sections of Section 6(2) of the Passports Act, 1967.

(xi) A revised Undertaking under GSR 570(E) is attached at Annexure 'A'.

(xii) Passport Officers may issue an internal SOP along the above lines so that there is no confusion in handling of applications that would attract provisions of section 6(2)(f) of the Passports Act, 1967.

22) We shall now consider the law as laid down by the Hon'ble Supreme Court and this Court, in respect of applications seeking renewal/reissue of Passports when criminal proceedings are pending.

22.1) This Court in the case of *Narendra K.Ambwani vs Union of India and Others* reported in 2014 SCC OnLine Bom 356, has made the following observations and then issued guidelines as under:-

“9. In view of the said affidavit we do not deem it necessary to issue any direction on the issue of renewal of the passport, however, it is desirable that the Respondents put into place a procedure to ensure that similar instances do not recur which would cause unnecessary hardship to other applicants such as the Petitioner.

10. In the circumstances, we propose to issue guidelines to be of the passports, in all cases, where the Magistrate's court has directed that the passports may be renewed as per the "Rules".

11. Accordingly, we issue the following directions:

(a) in all cases where the Magistrate's court directs renewal of the passports under the Rules, the Passport Rules, 1980 shall apply and passports other than for a child aged more than 15 years shall be renewed for a period of ten years or twenty years as the case may be from the date of its issue. All qualifying applicants are entitled to have passport renewed for at least ten years. The Regional Passport Office shall renew the passports of such qualifying applicants at least for ten years.

(b) In case where the passports are valid and the applicants hold valid visas on existing passport, the Regional Passport Officer shall issue the additional booklet to the same passport provided the applicant had obtained permission to travel abroad.

(c) If the learned Magistrate passes an order making the reference to the said Notification No. G.S.R. 570(E) dated 26th August, 1993, the passport shall be renewed only for such

period that the Magistrate may specify in the order or as otherwise specified in the said Notification where the passport of the applicant is valid for less than one year, the additional booklet may be issued subject to the orders to be obtained in this behalf only of the Magistrate concerned.

12. For avoidance of doubt, we clarify that the guidelines set out herein will be applicable only in the cases where the learned Magistrate ordered renewal of the passports as per Passport Rules, 1980 and to no other. In other cases, where the learned Magistrate had granted permission to the accused persons to depart from India, the provisions of section 6(2) (f) of the Passports Act, 1967 and the Notification(s) issued thereunder from time to time by the Ministry of External Affairs or such other competent authority so empowered, will continue to apply and directions permitting the accused persons to depart from India and/or the orders permitting renewal of the passports of such accused persons shall continue to be governed by such Notification(s).”

22.2) This Court in the case of *Abbas Hatimbhai Kagalwala Vs. The State of Maharashtra and Anr* reported in 2022 SCC OnLine Bom 1992, has observed that:-

“3. Learned Counsel for the Union relies upon Notification dated 25.8.1993 and Section 6.2 (f) of the Passport Act, 1967, to conclude that the Petitioner has to obtain a permission of the Court where criminal case is pending against the Petitioner for the purpose of issuance of the Passport. It will be a case of issuance of the Passport and not renewal of the Passport.

4. It is the case of the Petitioner that validity of the Passport came to an end in the year 2017. The Petitioner applied for renewal and said application is pending for more than 4 years. It is also a fact that a criminal case is pending against the 465, 467 r/w 120-B of the Indian Penal Code.”

After considering the facts of the case, the Court in clause (i) of the operative part of the order specifically directed that

“ i) The Respondent shall process the application of the petitioner for renewal of Passport without insisting for the permission of the Court, where a criminal case is pending against the Petitioner. If the Petitioner is travelling abroad, then the Petitioner would be required

to seek permission from the Court where criminal case is pending.”

22.3) This Court in the case of *Amol Vasant Kelkar Vs. Union of India* reported in AIR ONLINE 2021 BOM 977, has observed that:-

“16. We are of the opinion that the Magistrate ought to have assigned reasons if he was of the opinion that renewal of the passport of the petitioner had to be granted only for a limited period of two years. Since, no such reasons have been assigned, the said direction for renewal of passport for a limited period is rendered erroneous. The Magistrate could very well have said that the passport be renewed as per Rules. By application of law laid down by this court in the above judgments, it would necessarily mean that the passport of the petitioner would be renewed for a period of 10 years, subject to the petitioner satisfying other requirements as per the said Act and Rules framed thereunder. Therefore, we find that the impugned order passed by the Magistrate to that extent is not sustainable and it needs to be modified.”

22.4) This Court in the case of *Cyrus Keki Bhasara Versus Union of India and Another* reported in 2024 SCC Online Bom 1085, has observed that:-

“16. Further, it appears that when the petitioner says that his application is for renewal of a passport, it is a misnomer, as the Act and the rules provide for re-issuance of a passport after the same expires. As the Passport Act does not contain any separate provision for renewal of a passport as the prescribed form also provides for re-issuance, we have not been shown any provision, otherwise.

17. In the light of the above discussion, we accept the contention raised on behalf of the respondents that the petitioner's case falls under the provisions of section 6(2)(f) and also stands covered by the notification issued by Central Government dated 25th August 1993. In these circumstances, the petitioner would be required to make applications to the criminal courts where the cases are pending for re-issuance of a passport. We thus, find that the relief as prayed for by the petitioner in the present proceedings, cannot be granted.”

22.5) This Court in the case of *Alex Richadson Laurindo D'Souza Versus State of Goa* in CRIMINAL WRIT PETITION NO.291 OF 2025 (F) dated 30th June 2025, in paragraph 7 has observed that:-

.... "On reading of other guidelines in clause 5, when minutely read, it is evident that they are indicated to be followed when the passport has to be issued and this includes police verification as well as the calling for clarification as regards the pending criminal cases and the No Objection Certificate from the concerned Court.

In case of the Vangala Kasturi Rangacharyulu (supra), the Apex Court on analysing the Scheme of Section 6 had specifically held that the refusal of a passport can be only in cases where the applicant is convicted during the period of 5 years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment is not less than 2 years. The procedure that is contemplated under Section 6(2), involves the decision of the Passport Authority to refuse to issue a passport or travel documents for visiting any foreign country under clause (c) of sub-section (2) of Section 5 and this includes a refusal to issue the passport or travel document as the case may be, when an application is made for issuance of passport. Neither Section 5 nor Section 6 apply to the renewal of passport as it is very clear that when for the first time a passport is issued, a thorough investigation is expected to be carried out but where criminal case is pending against an applicant and he seek renewal or when an appeal is pending before the competent Court, he has to approach the Court seeking no objection for renewal.

In absence of any period being specified in the order and when the Court direct that the application for renewal of passport shall be considered irrespective of the pendency of criminal appeal or criminal case, in such a stipulation, Rule 12 of the Passport Rules, 1980, shall come into operation, which clearly stipulate that an ordinary passport for persons other than children below the age of 15 years, shall be in force for a period of 10 years, from the date of its issuance. Therefore, once a passport is allowed to be renewed, it shall necessarily be in terms of Rule 12, i.e. for a period of 10 years unless and until a specific embargo is put in by the Court, stating that the renewal shall be only restricted to one year."

22.6) The co-ordinate Bench of this Court in the case of *Rajan Baburao Patil & Ors. Vs. Union of India Through Ministry of External Affairs & Ors.*

2025 SCC Online Bom 1525, this Court in has held that:-

“8. In view of the aforesaid, the impugned communication dated 24th February, 2025, issued by the Regional Office rejecting the passport application and the order dated 15th February 2025 passed by the JMFC, Mohol are quashed and set aside. The Respondent No.2 shall re-issue the passports of the Petitioners for a period of five years in accordance with the Passports Act, 1967 and rules and regulations thereunder.

9. Needless to state, that if the Petitioners are desirous of travelling abroad, the Petitioners are required to seek permission of the Trial Court before leaving the country in terms of the conditions of their anticipatory bail order.”

22.7) The Hon’ble Supreme Court in the case of *Vangala Kasturi Rangacharyulu Versus Central Bureau of Investigation* reported in 2021

SCC OnLine SC 3549 has observed that:-

“7. The refusal of a passport can be only in case where an applicant is convicted during the period of 5 years immediately proceeding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years.

8. Section 6.2(f) relates to a situation where the applicant is facing trial in a criminal court.

9. Admittedly, at present, the conviction of the appellant stands still the disposal of the criminal appeal. The sentence which he has to undergo is for a period of one year. The passport authority cannot refuse the renewal of the passport on the ground of pendency of the criminal appeal.”

22.8) The Hon’ble Supreme Court in the case of *Rita Verma Vs Union of*

India and Ors reported SLP (c) No. 7481 of 2024 dated 20th September 2024 has directed that, the passport be renewed in accordance with the Office Memorandum dated 10th October 2019.

22.9) The Hon'ble Supreme Court in the case of *Mahesh Kumar Agarwal Vs. Union of India & Anr reported in 2025 SCC OnLine SC 2887*, has held that:-

“10. On a plain reading, GSR 570(E) does two things. First, it recognises that persons facing criminal proceedings are not to be treated as absolutely disentitled to a passport. Instead, it permits such persons to obtain a passport, notwithstanding Section 6(2)(f), where the concerned criminal court has applied its mind and passed an order in relation to issuance or use of the passport and where the applicant furnishes an undertaking to appear before the court as and when required. Secondly, it structures the exercise of that exemption by tying the validity and use of the passport to the terms of the court's order. Thus, where the court specifies a period for which the passport is to be issued, the passport authority must honour that period. Where the court does not stipulate any period, the notification provides default rules, including issuance for a shorter period, ordinarily one year, in appropriate cases. What the notification does not do is to create a new substantive bar beyond Section 6(2)(f), or to insist that the criminal court must, in every case, grant a prior blanket permission to “depart from India” for specified dates as a jurisdictional precondition to the very issue or re-issue of a passport.

12.In our view, once the criminal courts, with full knowledge of the pending proceedings, consciously allowed renewal subject to the condition that the appellant shall not travel abroad without their permission and, in the case of the NIA Court, required redeposit of the renewed passport, the underlying concern of Section 6(2)(f) stood adequately addressed under judicial supervision.

15. The reasoning of the learned Single Judge proceeds on the basis that, once Section 6(2)(f) is attracted, renewal of a passport is virtually ruled out unless the criminal court, at the same time, permits a particular foreign trip for a specified duration. With respect, this approach overlooks two features of the statutory

scheme. First, Section 6(2)(f) is a ground for refusal at the stage of issue or re-issue, but it is expressly made subject to “the other provisions” of the Act, which include Section 22 and the exemption carved out through GSR 570(E). Second, GSR 570(E) does not compel the criminal court to authorise a particular journey. It proceeds on the broader premise that where the criminal court permits the applicant to depart from India and the period of validity can be anchored either in the court's order or in the default periods mentioned in the notification, the embargo in Section 6(2)(f) stands lifted to that extent. In the present case, both criminal courts have adopted a different but equally legitimate method of control by allowing renewal while reserving to themselves the power to regulate each instance of foreign travel. That method satisfies the statutory concern of securing the accused's presence as effectively as, if not more effectively than, a one-time permission for a single trip.

16. The respondents and the Calcutta High Court have also treated the expression “permission to depart from India” in GSR 570(E) as if it necessarily refers only to a concrete permission for an immediately proposed journey. We do not read the notification in so narrow a manner. Where, as here, the conditions of bail already stipulate that the appellant shall not leave the country without prior permission of the court concerned, and the same court then grants no objection to renewal of the passport without relaxing that condition, the requirement that departure from India shall be subject to judicial permission is built into the very terms of the exemption. The passport authority is not required, at the renewal stage, to demand a schedule of future journeys or visas which may not yet exist. Its task is to see whether, despite pending proceedings, the criminal courts have chosen to keep the possibility of travel open under their supervision. Once that position is clear, GSR 570(E) applies and the bar under Section 6(2)(f) cannot be invoked to refuse renewal altogether.

22. It is important to keep distinct the possession of a valid passport and the act of travelling abroad. A passport is a civil document that enables its holder to seek a visa and, subject to other laws and orders, to cross international borders. Whether a person who is on bail or facing trial may actually leave the country is a matter for the criminal court, which can grant or withhold permission, impose conditions, insist on undertakings, or refuse leave altogether. In the present case, both criminal courts have done exactly that. To refuse renewal on the speculative apprehension that the appellant might misuse the passport is, in effect, to second-guess the criminal courts'

assessment of risk and to assume for the passport authority a supervisory role which the statute does not envisage.

25. In the light of the above discussion, we are unable to sustain the approach adopted by the learned Single Judge and the Division Bench. Both have treated Section 6(2)(f) as an absolute bar so long as any criminal proceeding is pending, without giving full effect to the statutory exemption mechanism under Section 22 and GSR 570(E), and without adequately appreciating that the criminal courts actually dealing with the appellant's cases have consciously permitted renewal while retaining stringent control over any foreign travel. They have, in effect, converted a qualified restriction, designed to secure the presence of an accused, into a near-permanent disability to hold a valid passport, even where the criminal courts themselves do not consider such a disability necessary.

26. We clarify that our conclusions are confined to the legal interplay between Sections 5, 6, 7, 8, 9, 10 and 22 of the Passports Act, GSR 570(E) and the OM dated 10.10.2019, on the facts of the present case. We express no opinion on the merits of the criminal proceedings pending before the NIA Court, Ranchi, or on the appeal pending before the Delhi High Court, nor do we dilute in any manner the power of those courts to vary, strengthen or relax the conditions of bail, including conditions relating to travel abroad, in accordance with law.”

22.10) The Hon'ble Supreme Court in the case of Sumit Mehta V/s State of NCT of Delhi reported in (2013) 15 SCC 570 in paragraph 13 has observed that:-

“The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India .”

23) Perusal of Section 6(2)(f), would indicate that it relates to a situation where a criminal proceeding is pending and the applicant is facing trial in a criminal court. No doubt, where criminal cases or criminal case is

pending, the authority under Section 6 (2) (f), has the power to refuse to issue a passport. This is one of the reason for refusal. This is a independent power and authority under the said Act. An exception to the said restriction is found in the notification dated 25th August 1993 and Office Memorandum dated 10th October 2019, issued under section 22 of the said Act. The said Notification and OM are issued in public interest and for the benefit of the persons facing a criminal proceedings. The aim and purpose for issuing the said notification and Office Memorandum appears to be to reduce to a large extent and/or eliminate the inconvenience and disentitlement of persons in getting a new passport or renewing the existing passport or travel document when a criminal case is pending.

24) We are of the opinion that the main purpose and object behind incorporating section 6(2) (f) as one of the grounds for refusing the issuance of passport or a travel document is clear i.e to ensure that the person accused of any criminal offence is at all times available to face the trial, and appears before the concerned court as and when required for the purposes of the criminal proceedings which are pending. This, according to us is the ultimate object and there can be no quarrel or doubt with the purpose or object. The aim and object are to ensure that the trial is proceeded with smoothly, expeditiously and in a timely manner. Possibly, for this reason, the permission of the Court appears to be considered necessary by the executive and therefore clause (f) seems to be incorporated and

notification dated 23rd August 1993 and OM dated 10th October 2019 are issued. On a perusal of the OM dated 10th October 2019, we have noticed that, the OM specifically states that the court NOC would make a mention of the cases pending against the applicant and the prayers made by the applicant and nothing more. Under the OM the Applicant is under an obligation to get the NOC from each and every court where the case or cases are pending. In our opinion, considering the provisions of the Passport Act, the authority and power vested in the Passport Authorities and the terms of the notification as mentioned and reproduced in paragraph 22 hereinabove, we are of the opinion that, the need to take permission of the Court in all and every criminal case may not be insisted upon. In our opinion and view, the said terms/conditions as mentioned in the notification and OM may be required to be modified and or reasonably classified depending on the seriousness and gravity of the crime, nature of the crime i.e. crime against society, financial fraud, the role/overt act, if any, attributed to the accused, the adverse impact of the offence on the society and the economy, the sentence that could be imposed under and in accordance with the law, the antecedents of the applicant or if the applicant is a habitual/repeat offender etc.

25) Under the said Act, it is the Passport Authority that has the power to issue a passport or reject it under section 5 of the said Act, which power is governed by section 6 of said Act. The refusal can be done only

within the framework and as provided by section 6 of the said Act. The power to vary, impound or revoke the passport is with the Passport Authority under section 10 of the said Act and the power to effect immediate suspension of the passport or travel document is with the Central Government or its designated Officer under section 10 A of the said Act. The passport Authority may also grant a passport or travel document for a prescribed period or for a fixed shorter duration depending on the type of the passport or as per the request of the applicant or as per the decision of the authority depending on the circumstances prevailing at the relevant time. The passport authority under the said Act is empowered to issue a passport in the first instance and also re-issue or renew the same. As holding a passport or a travel document is a fundamental right, the power and authority to deal with a passport or do any act which affects the validity of the passport or travel document is limited and restricted by reasons mentioned in section 6 , 10 and 10 A of the said Act. The authority and power of the passport authorities under section 5, 6 10 and 10A of the said Act are all guided and limited by the provisions of the said Act. Under the said Act, the power and authority of the Court to revoke the passport or the travel document is under section 10(7) of the said Act on the conviction of the accused for any offence under the Passport Act or rules made thereunder or under 10(8) of the said Act, to an Appellate Court or the High Court while exercising the powers of revision. The concerned criminal

courts before which the criminal proceedings are pending are primarily concerned with the criminal proceedings, the offences alleged therein and in deciding the said criminal prosecution after conducting a fair and just trial as per and in accordance with the law. The Courts role is concerned and limited to conducting and concluding the trial and ensuring that the accused is present and available for, at and throughout the trial. At the highest the concerned criminal court, can only give and make available the details/sections for which the accused is put on trial, the number of witnesses and the status of the criminal proceedings. According to us all the information can be made available and would be covered by the Affidavit and undertaking which the accused is required to submit under the notification dated 23rd August 1993 and Office Memorandum dated 10th October 2019. The information regarding to the criminal proceedings may possibly be endorsed by the concerned Officer/Administrative Head Clerk in the criminal Court. According to us, considering the provisions of the said Act more particularly sections 5, 6, 10 and 10A the question of giving an NOC or permission to seek renewal to the accused/applicant may not strictly be within the power and authority of the concerned criminal court. According to the said Act, the said power and authority is vested exclusively and solely in the passport authority and not the criminal courts.

26) Pursuant to the notification dated 25th August and 10th October 2019 Courts have been given a limited power or authority to issue a

NOC/permission mentioning the details of the case and prayers made therein. Under the Act, a passport or travel document can be varied, impounding or revoked under section 10 and suspended by the Central government in public interest under section 10A of the said Act. This indicates that the power to deal with the validity of the passport or travel documents is exclusively with the Passport Authorities. Pertinent to note that, even these powers are circumscribed in the terms of section 10 (3) (a) to (h). If the terms of Section 10 (3) are not satisfied, the passport cannot be impounded or revoked. Further, if the passport is not impounded or revoked under Section 10 (3), the passport cannot even be suspended under Section 10-A. The Court has powers only under section 10(7) and 10(8) of the said Act and no more. Under the Passport Act, Section 10(7) provides that a court convicting the holder of the passport or travel document for any offence under the Passport Act or the rules made thereunder may revoke the passport or travel document, which revocation shall become void if the conviction is set aside on appeal or otherwise. Section 10(8) of the Passport Act provides that an order of revocation under section 10(7) may be made by an appellate court or by the High Court when exercising its powers of revision. On a reading of the said Act, it is therefore clear that the power and authority to issue a passport or vary or impound or revoke or suspend a passport or travel document is vested with the passport authority. The Courts have the limited powers as mentioned to

revoke the herein above and of course the power of judicial scrutiny and review when the question of the order affecting the fundamental rights under Article 21 of the Constitution of India are affected and encroached into by the Authorities. The orders of the concerned criminal court in passing directions to deposit or surrender the passport or directing the accused to seek prior permission before leaving the country cannot be equated with the powers of the Passport Authorities under sections 5,6,10 or 10A of the said Act. The said directions and orders passed by the concerned criminal court are only with a view and objective to ensure the presence of the accused at the trial and to ensure that the trial is not delayed or derailed for any reason whatsoever.

27) Perusal of the sections 5, 6, 7 and 10 would make it clear that the power and authority to issue a passport or travel document is vested with the Passport Authorities. The reasons based on which a passport or travel document can be refused are limited, precise and specifically mentioned in the sections. Similarly the power and authority to vary, impound, revoke or suspend a passport or travel document is also specifically mentioned and controlled by the provisions of Section 10 of the said Act. As regards the bar under Section 6(2)(f) the same is watered down, diluted and controlled by the notification dated 25th August 1993 and OM dated 19th October 2019 which are issued under Section 22 of the said Act in public interest.

28) Further a passport can be renewed as per the Passport Act and the rules made thereunder. Under Rule 12, a passport would in the normal situation be renewed for a period of 10 years, subject to of course the person complying with the Act and Rules framed thereunder and orders of the court. The duration/period of the valid passport can only be modified and or altered only in accordance with and after following the procedure and process as stated in Sections 7 and 10 of the said Act or by an order of court.

29) It is pertinent to note that, the said Notification dated 25th August 1993 comes into play and would applicable only when, the person against whom proceedings are pending is desirous of traveling/departing from India and who has order from concerned court in that regard for permitting him to do so. The said resolution refers to seeking exemption under Section 6 (2) (f) when the concerned criminal court permits the person to depart from India. An undertaking, is to be provided by the said Applicant. The said GSR 517 (E) only exempts the applicant from operation of section 6(2)(f) when he is permitted to travel abroad. In cases where permission to travel abroad is not sought and the question is only of a simplicitor renewal which is being considered, we are of the opinion that, the Passport Authority is the ultimate Authority under the Act which is empowered to consider said application independently, based on the authority and power vested in it under the said Act and as per the

provisions of the Act and Rules made therein and subject to the same.

30) Considering the overall framework of the said Act and Rules, it is clear to our mind that the Passport Authority is the only and ultimate authority under the said Act which is empowered under the said Act to issue a passport or travel document as per the application or refuse to issue a passport or a travel document for the specific reasons stated in section 6 of said Act.

31) We have noted that the notification dated 23rd August 1993 would be applicable to persons who have a criminal proceeding pending and who have obtained orders from the Court to travel abroad. The notification does not deal with any other situations like, a person applying for a new passport after the criminal case is filed or in respect of a person who is only seeking renewal without the desire or intention to immediately travel, or a person who is only desirous of having and keeping a valid and existing passport. The Notification also will not apply to cases where cognizance of the crime is not been taken by the court. Perusal of the OM dated 10th October 2019 makes it clear that only filing a FIR or a criminal proceedings does not attracts the bar of Section 6(2)(f). The notification cannot be read to mean and imply that once a criminal proceeding is filed the applicant is disentitled from applying for the fresh passport or travel document or that he is disentitled from simplicitor renewing the passport or

travel document even if not required to travel. The situation, that a holder of the passport or travel document only seeks renewal or applies for a first passport is covered under the OM dated 10th October 2019.

32) Perusal of GSR 570(E) dated 25th August 1993 and the OM, makes is amply clear that, the same were introduced to give relief to applicants against whom criminal proceedings are pending before any Court of law in India but who may need to travel abroad for some urgent business. The same are issued in public interest. The GSR 570 (E) dated 25.8.1993 and the OM are both issued under section 22 of the said Act, provide in detail for process, procedure and precautionary measures which have to be taken by the passport authorities in processing the applications of the applicants against whom criminal proceedings are pending. Various checks and counterchecks have been provided in the OM to ensure that a proper decision is taken in accordance with the law. In view of the checks and counterchecks provided for by the OM, we are of the considered opinion that the order of the concerned Court may not be necessary in all criminal cases or may be necessary only in for cases involving serious and or heinous offences, economic offences, offences against the society or in case of the applicant who has multiple FIR/criminal proceedings registered of the same or similar nature. According to us, the terms, conditions and instructions provided in the OM are sufficient to meet and achieve the objects and purpose for issuing the OM. We say this for various reasons. The

OM dated 19th October 2019 provides for an independent enquiry to be conducted by the Passport Authority if necessary. The Applicant is required to file an undertaking as per notification dated 25th August 1993 mentioning all the criminal cases against the Applicant, contents of which if found false or incomplete, the application is liable to be rejected. The application is to be processed only in the pre-police-verification (PV) mode. This is done with an objective to ensure that the criminal cases mentioned in the undertaking is matched with the criminal case mentioned in the Police Verification Report (PVR). The OM provides that a SCN may be issued if the undertaking is found to be incomplete or misleading or it is found that the applicant has suppressed details of criminal cases. In such cases and eventualities, the OM provides that action be initiated of Section 12 of the Passport Act, 1967, or the passport be impounded under Section 10(3) of the said Act. The OM further provides that, in case the first Police Verification turns out to be adverse, a secondary police verification is provided for, which is to be submitted along with a detailed letter seeking clarification from the Applicant in respect of the pending criminal cases. In addition to the secondary PVR, the Passport Authority may if it deems fit and necessary conduct a discreet enquiry by sending the court order/NOC or seeking verification from other government department or agencies. Most importantly the OM, specifically provides that mere filing of a FIR do not come under the power of Section 6(2)(f) and that criminal

cases/proceedings would be considered pending if a case is registered before the court and cognizance of the case has been taken. It is provided that, if the police report and undertaking are matching then the NOC issued by the court would have precedence over the adverse Report, in which case the the adverse report may be overruled with the written approval of the Passport.

33) As noted earlier the OM specifically states that the Court Order would mention the number of the criminal proceeding and the prayers made therein. We are of the opinion that if the NOC of the Court is to contain only the aforestated information, the same can be provided by the concerned Court on the administrative side. The said NOC can be an official document issued by a responsible officer of the concerned Court as a part of his responsibility and duty. The said information will be based on and extracted only from the Court record. Further, the said NOC shall contain details of the status of the criminal proceedings, the stage of the trial, a copy of the rozanama indicating the attendance and conduct of the applicant at the trial etc and any other information if available on record in respect of the Applicant such as antecedents, other criminal cases. We are of the considered opinion that, the object and purpose of the court NOC will be satisfied and meet based on the said information being provided. Further, the judicial time of the concerned court will be saved and better utilized and at the same time the application seeking the said information

will be disposed of expeditiously. We say this also for the reason mainly that the OM provides for enough checks and balances as mentioned herein above. The other aspect, which we have considered, for such delays are beyond the control of the Courts and cause considerable inconvenience to the persons seeking an NOC/permissions. A perusal of the OM indicates that, the said NOC is mainly used for cross verification and is in addition to the undertaking of the Applicant, the enquiry and verification and reverification. According to us, issuing the NOC as per the requirements of the OM dated 19th October 2019 does not entail the application of a “judicial function”. The application of a judicial scrutiny to the application seeking permission for renewal or for filing an application for renewal of the passport or the travel document is extremely limited for the simple reason that, the scope of the power and authority to issue a passport and/or vary compound revoke is already well defined and circumscribed by section 6 and 10 of the said Act and is specifically vested and bestowed on the Passport Authority. The Courts before whom the criminal action is initiated, may issue a certificate or endorse information regarding the criminal matters pending before it and the prayers made therein. The details status of the criminal proceedings and stage of the trial in the criminal proceedings may be mentioned. This will also be in line with and in consonance with the object of the OM dated 19th October 2019.

34) One must keep in mind that, a pending criminal proceeding or

just the fact that a criminal proceeding is instituted, does not lead to an act of automatic impounding or cancellation of the passport or travel document. The criminal Court after taking cognizance and at the initial stage of bail has the discretion to impose such terms and conditions it deems appropriate so as to ensure that the accused does not interfere with the ongoing investigation and that the accused is available at all times during the trial and further as and when necessary and called upon by the criminal Court. The order for depositing the passport or imposing restrictions on movement or not leaving the country without prior permission are discretionary orders passed by the concerned criminal Court after considering the seriousness and gravity of the offence, role of the accused and with the object of ensuring presence and availability of the accused for the trial. In some cases, the criminal Courts order deposit of the passport in Court. The order of depositing the passport does not automatically invalidate the term/period of the passport nor is the passport thereby automatically revoked. In such cases, the passport though deposited in Court, is valid and allowed to be in existence and in force for the balance term/tenure, even after a criminal proceeding is filed and during the pendency thereof. This fact indicates that, the Order imposing conditions does not effect the validity, period or existence of the passport. An order imposing terms/restrictions on travel or seeking prior permission to leave the country or a direction to deposit the passport in a pending criminal

case/prosecution, according to us, is done as precautionary measure to bring in required caution, to ensure that the trial is not frustrated and once passed automatically form part of the or a condition of the passport or travel document. The Order in a sense gets inbuilt therein and shall automatically form part of the NOC. The Court, imposes conditions and restrictions with the object and intention to ensure availability of the accused person at the trial and to ensure that the due process in accordance with law is followed and complied with. Further, when a passport is directed to be deposited in Court, it lies with the Court and an application would be required to be made to the Court for travel or for dealing with the passport or return for the limited purpose of renewal. In such cases, the applicant would have to approach the court, seek release of the passport at the first instance, so as to enable him to apply for renewal. In cases other than where deposit of Passport Orders are passed and where the accused desires to travel, he is required by an application made to the Court, seek prior permission of the Court to leave the Country. The concerned court alone has the jurisdiction and power to impose such conditions as it deems fit in respect of the applicant/persons right to leave the country and travel abroad. The said application, contains the reason for the departure from the country, the duration/period of the travel, a detailed itinerary with the details of the place the accused proposes to stay, the contact numbers date of return etc. At this juncture the Court after considering the facts of the

matter, the purpose and genuineness thereof, and after hearing the prosecution and based on the need and requirement of travel impose such conditions as it deems fit including deposit/surrender etc. only to ensure that the accused is available for trial and attends the court as and when required at the time and in the course of the trial. If the court is of the opinion that, permission may not be granted, it can be rejected in toto. In our opinion, the role of the Court ends here. The question whether the passport or travel document, should be renewed or whether a new passport be issued for the first time when a criminal proceeding is merely pending is not an issue which the Court can deal with and decide.

35) We have noted that, the purpose and object of the OM in providing relief to person against whom criminal proceedings are pending is clear from the fact that the OM itself provides that mere filing of FIRs and cases under investigation do not come under the purview of Section 6(2) (f). The OM provided that such criminal proceedings would only be considered pending against an applicant if a case has been registered before any Court of law and the court has taken cognizance of the same. So criminal matters in which cognizance is not taken clearly do not come within the purview of nor are they hit by section 6(2) (f) of the said Act. The OM in fact reiterates the basic and fundamental principle of criminal law that, a person accused in a criminal proceeding or for a criminal offence is presumed to be innocent till the charges are established and he is proved

guilty. One must also keep in mind that, if the person is acquitted, though an appeal against acquittal is filed, pending and a continuation of the criminal proceeding, the presumption of innocence is further strengthened, fortified and confirmed. We are of the opinion that, it should be noted and at all time remembered that as per the settled principles of law, an order of acquittal would be interfered with and reversed only if the findings/reasons of acquittal are perverse, unsustainable, based on a incorrect appreciation or misreading of the evidence or results in a gross miscarriage of justice. There have to be substantially compelling reasons to reverse the finding of acquittal.

36) A few questions which would arise for consideration are (i) What happens if the criminal proceedings are stayed by an Appellate/higher court? (ii) What happens if the Court before whom the criminal case is pending has not imposed any restrictions on the travel nor is the passport directed to be surrendered or deposited in the Court? (iii) What happens if the Court has not taken cognizance of the said criminal proceedings and the accused is required to renew his passport or decides to apply for a fresh passport?

37) One must also keep in mind that, even if a accused has a valid and existing passport he can depart from the country only after completing other required formalities such as applying for a visa and other permissions. A renewal of the passport only keeps the document valid and

in existence. The renewal of a passport or travel document of applicant against whom a criminal case is pending, would be subject to the condition that the applicant would need to approach and apply to the concerned Court for either getting appropriate orders/directions or seek modification/relaxation of the restrictive orders or directions in respect of traveling abroad. The said restrictive orders, according to us, from the date of the order become a prescribed condition or endorsement of the passport. The Order is integral part of the passport. Permission to travel abroad and renewal or reissue of passport are completely distinct and different issues and are dealt with by different Authorities i.e renewal by the Passport Authority in accordance with the said Act and permission to travel by the concerned criminal court. The Hon'ble Supreme Court in the case of *Mahesh Kumar Agrawal Vs. Union of India (Supra)* has observed that possessing a valid passport and the act of traveling abroad are distinct. After a passport is issued, one needs a visa and in cases where criminal proceedings are pending, the applicant is required to apply to the court and seek prior permission if travel restrictions are imposed. To be denied a renewal or reissuance of the passport under and as per rule 12 only on the basis of a pending criminal case would undermine the object and purpose of the Act and also curtail the fundamental right and option arising therefrom of free travel. Curtailing the validity of a renewal of the passport without reasons would also be contrary to the Act and the Rules.

Considering the aforestated it would be necessary for the Passport Authorities to consider which stage or time the Applicant is required to approach the court i.e. at the time of filing the renewal application or at the time of seeking permission to travel abroad.

38) It is also pertinent to note that after renewing or reissuing the passport, the applicant/accused against whom, an order imposing restrictions on travel or seeking the leave of the court before leaving the country is imposed is required to approach the court for seeking such leave. It is here that the concerned Court looks at the merits and facts of the matter and decides whether to grant permission or to modify the conditions already imposed. There is in that sense no right in the accused applicant to travel or leave the country after the renewal of the passport. Permission has to be sought and other formalities are required to be complied with. This view is endorsed by various Courts. The purpose of insisting for a NOC from the concerned criminal court, in the form as contemplated in OM 19th October 2019 therefore in our opinion may not serve the purpose. As stated herein above, a NOC/certificate may be issued by the concerned Court.

39) Further, the Notification and the OM do not make any distinction or does not differentiate between the applicants facing charges of committing serious and/or heinous offences, or habitual offenders or offenders who may have a high possibility of absconding or avoiding trial

and those charged with lesser offences or for offences between family/relatives arising out of land disputes, cross FIR's between parties or neighbors or family members due to some small issues, or matrimonial proceedings or FIR being a offshoot and arising out of the main matrimonial proceeding or offences which are of essentially of a civil nature or the one of criminal prosecution arising out of a commercial transaction etc. Nor does the notification take into consideration malafide and malicious prosecutions launched with dishonest, malafide intentions to reck vengeance and personal vendetta. This according to us is an important aspect which is required to be considered and dealt with in an appropriate manner by the Government and all the concerned authorities. Some corrective steps need to be taken in that regard to make out a reasonable classification.

40) One must remember that Section 22 of the said Act, gives to the executive that authority exempt to any person or class of persons in public interest from the provisions of the Act. The notification issued as under section 22 of the said Act is issued in public interest. We are of the opinion, that the object i.e. balancing the right to life and personal liberty and ensuring a fair, just and expedient criminal trial which is sought to be achieved by the said notifications in respect of persons facing criminal proceedings may not completely achieved. There can be no quarrel with the intention and purpose of the Passport Authorities i.e to ensure presence of

the accused persons in the court when required and for the purposes of the trial. But, imposing conditions and procedure which are onerous, cumbersome and not in furtherance of and in aid to achieving the desired object, we feel are unnecessary, cause unnecessary inconvenience and therefore should be avoided. The Passport Authorities need to relook the provisions, considering the observation made herein and strike a right balance between the right to free movement, liberty and the right of the victim to seek a expedite and smooth completion of the criminal trial.

41) Further we may also observe that, when an application is made for a fresh passport or for a renewal of the existing passport or for issue of a passport when the leaflets in the passport are used up or exhausted, it is only the Passport Authorities who have the power and authority to take a decision on such application in accordance to and in compliance with the provisions of the Act and the Rules framed thereunder. In such cases, the applicant may not be required to approach the Court. This aspect requires to be considered.

42) The Hon'ble Supreme Court in the case of *Mahesh Kumar Agarawal Vs. Union of India (supra)* has observed that persons facing a criminal proceedings are not to be treated as "absolutely dis-entitled to a passport" and the Court has on the applicant furnishing an undertaking "to appear before the Court as and when required" pass an order to issue a Passport, the applicant would be entitled to a passport. The Hon'ble

Supreme court has further observed that the notification GSR 570(E) does not compel the criminal court to authorize a particular journey and that it proceeds on a broader premise that where a criminal Court permits the applicant to depart from India and the period of validity is anchored either in the court order or an default periods mentioned in the notification, the embargo in Section 6(2)(f) is lifted to that extend. It is further observed that if the terms of the bail are already stipulated and a NOC is issued without any modification, then in that event the condition that the departure from India shall be subject to judicial permission is automatically built in the very form of the exemption. The Hon'ble Supreme Court has observed that statutory concern of securing the presence of the accused as effectively as if not more effectively than, a one time permission for a single trip. Thus, the ultimate object is to ensure presence of the accused and a smooth conduct and consideration of the criminal trial. These observations, the Passport Authorities are bound to comply strictly and completely in letter and spirit.

43) We are also in agreement with the view expressed by the co-ordinate Bench in the case *Rajan Baburao Patil & Ors. Vs. Union of India Through Ministry of External Affairs & Ors. (Supra)*, *Narendra K. Ambwani Vs. Union of India (Supra)* and *Abba Hatimbhai Kagalwala V/s State of Maharashtra (Supra)*. Even otherwise, perusal of paragraph No.5 of Order dated 3rd February, 2025 passed in R.C.C. No 11 of 2012 clearly indicates

that, the order itself is not clear and in fact self-contradictory statements are made therein. Under normal circumstances we would have remanded the matter before the concerned Court, however taking into consideration that the same pertains to the issue of granting permission to the Petitioner for renewal of his passport, in the interest of justice, we deem it appropriate in not remanding it.

44) According to us, the Passport Authority should not raise such objections as far as the renewal of passport is concerned. Though it is not fundamental right of a citizen of India to get renewal of his passport by adopting such legal remedies, the concerned person has to spent his resources such as time and money in litigation. The Passport Authority being the “State” within the meaning of Article 12 of the Constitution of India, is expected to act in a fair and transparent manner. The Passport Authority is requested to reconsider its various Notifications issued till date to avoid inconvenience to the citizens of India.

45) Ultimately, by renewing the passport no right is accrued in favor of the concerned person to travel abroad. It is only after the concerned Court modifies the conditions of restraining Orders to the concerned person is permitted to travel abroad.

45.1) The Apex Court in the case of *Satish Verma V/s Union Of India* reported in 2019 SCC Online 2048 in paragraph 5 has observed that:

5. The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship are humanities which can be rarely affected through refusal of freedom to go abroad and clearly show that this freedom is a genuine human right. (See : Mrs. Maneka Gandhi v. Union of India (1978) 1 SCC 248). In the said judgment, there is a reference to the words of Justice Douglas in Kent v. Dulles 357 US 116 (1958) which are as follows:

“Freedom to go abroad has much social value and represents the basic human right of great significance.”

45.2) The Apex Court in the case of Maneka Gandhi V/s Union of India reported in (1978) 1 SCC 248 in paragraph 5 has observed that:-

“5.Thus, no person can be deprived of his right to go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, the procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney-General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law. There was some discussion in A.K. Gopalan case² in regard to the nature of the procedure required to be prescribed under Article 21 and at least three of the learned Judges out of five expressed themselves strongly in favour of the view that the procedure cannot be any arbitrary, fantastic or oppressive procedure. Fazl Ali, J., who was in a minority, went to the farthest limit in saying that the procedure must include the four essentials set out in Prof. Willis' book on Constitutional Law, namely, notice, opportunity to be heard, impartial tribunal and ordinary course of

procedure. Patanjali Sastri, J., did not go as far as that but he did say that “certain basic principles emerged as the constant factors known to all those procedures and they formed the core of the procedure established by law”. Mahajan, J., also observed that Article 21 requires that “there should be some form of proceeding before a person can be condemned either in respect of his life or his liberty” and “it negatives the idea of fantastic, arbitrary and oppressive forms of proceedings”. But apart altogether from these observations in A.K. Gopalan case² which have great weight, we find that even on principle the concept of reasonableness must be projected in the procedure contemplated by Article 21, having regard to the impact of Article 14 on Article 21.”

46) We are therefore of the view that, the Passport Authority while considering the suggestions of this Court, should also keep in mind the observations of the Hon’ble Supreme Court in the case of *Satish Verma Vs. Union of India (Supra)*, *Maneka Gandhi V/s Union of India (Supra)* and *Mahesh Kumar Agrawal Vs. Union of India (Supra)*. The Authorities are bound to follow the law as laid down by the Hon’ble Supreme Court in letter and spirit.

47) Considering the aforesaid facts, we are inclined to issue the following suggestion which according to us are in tune with the provisions of the Act, the Rules framed thereunder and in furtherance to the Notifications issued under section 22 of the said Act with regard to section 6(2) (f) of the said Act. The suggestions are as under

- (i) The passport should be issued and or renewed in accordance with Rule 12 of the Passport Rules 1980, unless otherwise directed by

the Court by a reasoned order.

- (ii) On the Applicant filing the required undertaking and Affidavit duly verified by the concerned criminal Court, the Passport Authority should not insist/raise objection for renewal of passport on the sole ground that the Order of the Court is not produced. One needs to keep in mind that the verified undertaking and Affidavit are issued under the supervision of the Court.
- (iii) The application seeking NOC/permission for renewal of the passport/travel document be made to and issued by the concerned criminal Court. The said NOC/permission should state all the important and relevant details/information of the case/cases as available on the Court record, the status and stage of the trial, the total number of witnesses to be examined, the witnesses already examined, and the sections under which the criminal prosecution has been lodged and initiated.
- (iv) The NOC/permission so issued should specifically state and attach the copies of all the relevant Orders passed by the concerned Court, before whom the criminal proceedings are pending, which impose conditions, and/or restrictions if any. A statement made by the Applicant regarding compliance with the terms and conditions of the said order is to be cross verified from the concerned department of the court and/or the Police Station. The

NOC/permission shall be conditional upon the accused complying with the terms and conditions imposed by the concerned criminal Court.

- (v) NOC/permission should state whether the accused is regularly attending or not the trial, if commenced and the Court as and when required and called upon by the Court.
- (vi) The office of the Public Prosecutor of the concerned Court, through the Investigating Officer/concerned Police Station, shall confirm the antecedents of the accused and whether any fresh FIR/complaint has been filed or any criminal proceedings have been initiated. The information regarding FIRs is to be placed only for the purpose of information.
- (vii) Cases involving serious and grievous offences, financial frauds, or offences against the State or the economy, or any other matter which in the opinion of court is serious or there is a likelihood or possibility of impacting the society at large, be placed before the concerned criminal Court, which shall consider the application for NOC/permission on its judicial side.
- (viii) In case of a fresh passport application/applications made for the first time/new passport, the Passport Authority shall not insist in a NOC/permission from Court and shall follow strictly the procedure, process and scrutiny as provided by the Passport Act.

- (ix) In case where the applicant has a valid passport and visa therein, and the pages/leaflets of the passport have been exhausted due to usage the Passport Authority shall issued/renew a passport in accordance with the Passport Act without insisting a permission/NOC and shall be subject to the further orders of the concerned criminal Court.

ORDER

IN WRIT PETITION NO 1788 OF 2025

- a) In view of the above, in Writ Petition No 1788 of 2025, the communication/Acknowledgment Letter dated 19th February 2025, issued by the Regional Passport Authority and the Order dated 3rd February, 2025, passed in Application below Exh-88 by the learned J.M.F.C., Pali, Taluka-Sudhagad, District-Raigad, are set aside.
- b) The Respondent No. 2 is directed to process the Application of Petitioner for renewal of his passport as per the Rules and Regulations framed under the law.
- c) It is needless to mention here that, in the event, the Petitioner intends to travel abroad, he shall seek necessary permission from the trial Court in that behalf.
- D) Petition is allowed in the aforesaid terms.

ORDER
IN
CRIMINAL WRIT PETITION NO. 5554 OF 2025
WITH
CRIMINAL WRIT PETITION NO. 5555 OF 2025

a) We direct the Respondents to renew the passport of the Petitioner for a period of 5 years from the date of its current expiry.

b) Both these Petitions are accordingly allowed.

(RANJITSINHA RAJA BHONSALE J.)

(A.S. GADKARI, J.)

ORDER
IN
CRIMINAL WRIT PETITION NO. 5554 OF 2025
WITH
CRIMINAL WRIT PETITION NO. 5555 OF 2025

C) By an Order dated 19th November 2025, we had directed to renew passport of the Petitioners for the period of 5 years. But in view of above discussion and observations, we permit the Petitioners to file an application for renewal of the Passport for a period of 10 years instead of 5 years.

(RANJITSINHA RAJA BHONSALE J.)

(A.S. GADKARI, J.)