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

WRIT PETITION NO. 818 OF 2026

Rakesh Shubhanand Jhan & Ors. ... Petitioners

V/s.

The State of Maharashtra ... Respondent

Mr. Raviraj Shantaram Gamare a/w Mr. Manoj Gaikwad and Mr. Prashant Rathod, Advocates for Petitioners.

Ms. Pallavi Dabholkar, APP for Respondent – State.

Mr. Hemand Dhole – API, Manpada Police Station, Dombivali Thane City.

CORAM : ASHWIN D. BHOBE, J.

DATE : 6th MARCH, 2026

P.C. :

1. Heard Mr. Raviraj Shantaram Gamare, learned Advocate for the Petitioners, and Ms. Pallavi Dabholkar, learned APP for the State.

2. Material facts from the Application indicate that Petitioners are Accused Nos. 1, 2, and 3 in Crime No. 391 of 2016, charged with offences under Sections 304(B), 306, 498A,

323, 504, 506, and 34 of the Indian Penal Code, 1860, as well as Sections 3, 4, and 6 of the Dowry Prohibition Act. Said crime is registered as Session Case No. 499 of 2019 and is pending before the Court of the Additional Sessions Judge, Kalyan (hereafter “Sessions Court”). Petitioners are enlarged on bail in Session Case No. 499 of 2019. The Session Case No. 499 of 2019 is at the stage of framing of charges.

3. Petitioners are holders of Indian passports. Petitioners, by their Application dated 15.05.2025, applied to the Sessions Court for renewal of their passports.

4. Mr. Raviraj Shantaram Gamare, learned Advocate for the Petitioners, submits that the Petitioners' request before the Sessions Court for the renewal of their passports for a period of 10 years, filed on 15th May 2025, is still pending and has not yet been considered. As a result, the Petitioners are seriously prejudiced and have therefore approached this Court. He states that Sandeep Jha (i.e., son of Petitioner Nos. 2 and 3) has completed his PhD in Sweden, and his Graduation Ceremony is scheduled to be held on 22nd May 2026 at Gothenburg, Sweden.

He emphasises that this occasion is very special for the Petitioners, and they plan to be with their son in Sweden on that day, which is why the urgency. He also asserts that the Petitioners have complied with the bail conditions and there are no allegations of any breach of conditions. He submits that the request in this petition is to direct the passport authorities to consider the Petitioners' request to renew their passports.

5. Mr. Raviraj Shantaram Gamare, referring to the memo of petition, highlights the numerous dates fixed in the matter before the Sessions Court since the filing of the Application dated 15.05.2025. He states that the graduation ceremony in Sweden is rapidly approaching. He explains that passport renewal, visa formalities, ticket booking, etc., need to be completed, which will require additional time. He adds that the Petitioners are under stress due to the upcoming ceremony date. Therefore, he prays that this Court to consider the Petitioner's request.

6. Ms Pallavi Dabholkar, the learned APP for the State, submits that the issue of passport renewal falls under the

jurisdiction of the Passport Authorities, who should have been joined in this petition. She states that Respondent has no objection to granting the limited request made by the Petitioners, namely, the consideration of their application for passport renewal by the Passport Authorities. She, however, submits that the Passport Authorities should decide on the renewal or non-renewal of the passport based on its merits.

7. The Hon'ble Supreme Court in the case of **Mahesh Kumar Agarwal Vs. Union of India & Anr¹**, in paragraph Nos. 20 to 25 has held as follows :-

20. It must also be noted that denial of renewal of a passport does not operate in a vacuum. This Court has repeatedly held in a catena of judgments⁶ that the right to travel abroad and the right to hold a passport are facets of the right to personal liberty under Article 21 of the Constitution of India. Any restriction on that right must be fair, just and reasonable, and must bear a rational nexus with a legitimate purpose.

21. The legitimate purpose behind Section 6(2)(f) and Section 10(3)(e) is to ensure that a person facing criminal proceedings remains amenable to the jurisdiction of the criminal court. That purpose is fully served in the present case by the conditions imposed by the NIA Court, Ranchi, and the Delhi

¹ 2025 SCC OnLine SC 2887

High Court, which require the appellant to seek prior permission before any foreign travel and, in the NIA case, to re-deposit the passport immediately after renewal. To add to these safeguards an indefinite denial of even a renewed passport, when both criminal courts have consciously permitted renewal, would be a disproportionate and unreasonable restriction on the appellant's liberty.

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.

23. The reliance placed by the respondents and the Calcutta High Court on the fact that the application for re-issue was made after the original passport had expired is also misplaced. The Passports Act contemplates passports that "continue in force" for a prescribed period. It does not create a separate disability for applicants whose earlier passports have lapsed. Re-issue after expiry is a routine occurrence. The only relevant question remains whether any of the statutory grounds of refusal under Section 6(2) continue to apply in the face of an exemption granted under Section 22 by way of GSR 570(E). For the reasons already discussed, we are of the clear view that they do not in the present case.

24. *Finally, even on the respondents' own reading of GSR 570(E), the consequence of an order which does not specify a longer period of validity is that the passport should be issued for a shorter duration, usually one year, and not that renewal must be refused altogether. The learned Single Judge and the Division Bench did not examine this aspect, because they proceeded on the premise that the appellant stood outside the exemption altogether. Once it is recognised that the appellant is within the exempted class, the correct question for the passport authority is the appropriate period of validity in the facts of the case, not whether any renewal is permissible at all. In the present matter, given that the Delhi High Court has expressly authorised renewal for ten years and the NIA Court has imposed stringent conditions including redeposit and prior permission for travel, we see no justification to curtail the normal period of validity.*

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.*

8. This Court in the case of **Abbas Hatimbhai Kagalwala**

Vs. State of Maharashtra & Anr². in paragraph Nos. 1 to 6 has held as follows :-

1. The Petitioner had applied for renewal of the Passport. Said application is not being entertained for the reason that the Petitioner should obtain a permission from the Court where a criminal case is pending against the Petitioner.

2. Learned Counsel for the Petitioner submits that for renewal of the Passport, permission from the Court where a criminal case is pending against the Petitioner, is not necessary. If a criminal case is pending, then the only limitation would be, the Petitioner can not travel abroad without the permission from the Court where a criminal case is pending against the Petitioner. He relies upon order passed by the Apex Court in Criminal Appeal No. 1342/2017 dated 27.9.2021.

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 Petitioner u/s 420, 465, 467 r/w 120-B of the Penal Code, 1860.

5. In view of the fact that petitioner is already

² 2022 SCC OnLine Bom 1992

issued a Passport earlier and the Petitioner would be seeking renewal of the Passport and the said application is pending with the Respondent, so also, considering the Order passed by the Apex Court in Criminal Appeal No. 1342/2017 (supra) we pass the following order:

Order

- i) The Respondent shall process the application of the petitioner for renewal of Passport without insisting for 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.*
- ii) Decision shall be taken as observed above, within 2 months.*
- iii) The impugned communication is quashed and set aside.*
- iv) If as per procedure on-line application is required to be made, the same shall be made by the Petitioner.*

6. The petition is disposed of.

9. The limited question in this petition is whether the Passport Authorities can consider the Petitioners' application for passport renewal?

10. In the present case, Mr. Raviraj Shantaram Gamare states that the Petitioners possessed a valid passport which

expired after the crime was registered. The Respondent has not produced any material on record that would hinder the Petitioners from requesting a passport renewal from the Passport Authorities. Ms Pallavi Dabholkar, the learned APP, has fairly stated that the Respondent has no objection to the Passport Authorities considering the application seeking passport renewal on its merits.

11. Considering the peculiar facts and circumstances of this case, the Petitioners having filed an application seeking permission to renew the passports as early as May 2025, the submissions of the learned Advocates, and the pronouncements mentioned above, this application can be allowed on the following terms:-

- a. Passport Authorities shall process the application of the Petitioners for renewal of their passport without insisting on permission of the Court, where the criminal case (Session Case No. 499 of 2019) is pending against the Petitioners. The said application shall be considered by the Passport Authorities strictly in accordance with

the law and on its own merits.

- b. If the Petitioners' passports are renewed, they shall deposit the renewed passports before the Session Court where Session Case No. 499 of 2019 is pending.
- c. If the Petitioners' passports are renewed, they must seek prior permission from the Session Court, where Session Case No. 499 of 2019 is pending, before any foreign travel.

12. Mr. Raviraj Shantaram Gamare submits that, if the passports are renewed, the Petitioners will fulfil all other requirements for travel to Sweden and will immediately apply to the Sessions Court for permission to travel. He accordingly requests that the Sessions Court be directed to dispose of such application expeditiously. If the Petitioners file an application for permission to travel to Sweden, as their purpose is to attend the Graduation Ceremony there, the Sessions Court is requested to make every effort to dispose of such application expeditiously,

strictly in accordance with the law on its own merits, in any case, within seven (7) days of its filing.

13. This Petition is partly allowed in the above terms.

14. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)