

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.384 OF 2019

Abbas Hatimbhai Kagalwala ... Petitioner

V/s.

The State of Maharashtra and Anr. ... Respondents

Mr. Vivek Kantawala a/w Amey Patil i/b M/s Vivek Kantawala & Co., for the Petitioner.

Mr. D.P Singh, for Respondent No.2.

Smt.Uma Palsuledesai, AGP for State.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 23rd AUGUST 2022

PC. :

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 Indian Penal Code.

5. In view of the fact that petitioner is already 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.

7. No costs.

(MADHAV J. JAMDAR, J)

(S.V. GANGAPURWALA, J)