

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 11151 of 2024**

VIMALBHAI KANABHAI CHUDASMA

Versus

SECRETARY , GOVERNMENT OF INDIA & ANR.

Appearance:

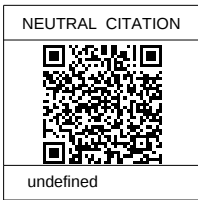
MR BM MANGUKIYA(437) for the Petitioner(s) No. 1

MS BELA A PRAJAPATI(1946) for the Petitioner(s) No. 1

KSHITIJ M AMIN(7572) for the Respondent(s) No. 1,2

CORAM:HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**Date : 10/12/2024****ORAL ORDER**

1. Heard the learned counsel for the petitioner.
2. It is submitted that against the petitioner, an FIR being I-56 of 2010 was registered with Chorwad Police Station, which came to be culminated into Criminal Case No.203 of 2011, wherein the Judicial Magistrate First Class, Keshod vide his judgment and order dated 7.2.2023 convicted the petitioner for the offence under Section 323 read with Section 148 of the Indian Penal Code and ordered to undergo sentence for simple imprisonment for a period of 6 months and also convicted under Section 147 of the Indian Penal Code and imposed the same sentence. Against the said judgment and order, the petitioner preferred an appeal before learned Additional Sessions Judge, Keshod, being Criminal Appeal No.12 of 2023, along with applications for suspension of sentence and conviction. The learned Sessions Judge allowed the application for suspension of sentence but rejected the application for suspension of conviction. Being aggrieved by the order of refusal to suspend the conviction, the petitioner preferred Criminal Revision Application No.273 of 2023 before this Court, which is pending for further hearing. The



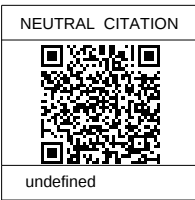
respondent authorities did not renew the passport of the petitioner in view of the pendency of the case.

3. Mr. Kshitij Amin, the learned counsel appearing for the respondent Passport Authority submits that the case of the petitioner will be governed by the notification/circular dated 25.8.1993 and the application would be decided accordingly.

4. In view of the pendency of the case, the authority has required the petitioner to furnish the Court's order. In this behalf, it is pertinent to take note of the notification/circular dated 25.8.1993 issued by the Ministry of External Affairs, providing that in the interest of public at large, the citizens, be exempted, against whom the proceedings in respect of an offence alleged to have been committed by them are pending before the Criminal Court. The relevant extracts of the notification dated 25.8.1993, read as under:

"In exercise of the process conferred by clause (a) of Section 22 of the Passport Act, 1967 (15 of 1967) and in supersession of the Notification of the Government of India in the Ministry of External Affairs No. G.S.R 298 (E) dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

- (a) the passport to be issued to every such citizen shall be issued -
 - (i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or
 - (ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;
 - (iii) if such order gives permission to travel abroad for a period less



than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

- (iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.
- (b) any passport issued in terms of (a)(ii) and (a) (iii) above can be further renewal for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that in the meantime the order of the court is not cancelled or modified;
- (c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period of travel abroad;
- (d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance to force of the passport so issued."

5. In view of the above, the respondent Passport Authority is directed to decide the application of the petitioner for issuance of passport with a validity period of five years in terms of the notification/circular dated 25.8.1993.

6. Needless to say that the exercise shall be completed within a period of four weeks from the date of the receipt of the copy of this order.

7. With the above direction, the petition is disposed of. No order as to costs.

Direct service is permitted.

OMKAR

Sd/-
(ANIRUDDHA P. MAYEE, J.)