IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 3289 of 2025

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE **Sd/-**

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Approved for Reporting	Yes	**No**

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HARSH MAHESH TANNA
Versus
STATE OF GUAJRAT & ANR.

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Appearance:
MR JEET J BHATT(6154) for the Petitioner(s) No. 1
MR MAYANK CHAVDA AGP for the Respondent(s) No. 1
MR PRADIP D BHATE(1523) for the Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**
Date : 17/03/2025
ORAL JUDGMENT

1. RULE. Mr. Mayank Chavda, learned AGP waives service of rule for the respondent No.1 and Mr. Pradip D. Bhate, learned advocate waives service of rule for the respondent No.2.

2. The present Special Civil Application seeks a direction to hold the renewal of the passport of the petitioner only for 1 year being violative of his fundamental right and therefore, being illegal, arbitrary and discriminatory and in violation of the provisions of the Passport Act, 1967.

3. Learned advocate for the petitioner has submitted that under the prevalent rules of the GSR Notification 570(E) dated 25.08.1993, the respondent authority has to renew the passport of the petitioner for a period of 10 years. He submits that the trial against the petitioner has been pending since last 6 years

and during the pendency of the trial, the petitioner's passport has expired in the year 2023. The petitioner has, therefore, moved application before the concerned Trial Court. The Trial Court vide its order dated 18.08.2023 has directed the passport authority to renew the passport of the petitioner as per the rules and prevalent notifications. Learned advocate for the petitioner submits that the respondent No.2 renewed the passport of the petitioner only for a period of 1 year from 19.01.2024 to 18.01.2025 in terms of the GSR Notification 570(E) dated 25.08.1993. He submits that as the validity of the petitioner's passport was going to expire on 18.01.2025, the petitioner made another application seeking renewal of the passport. The Trial Court vide its order dated 20.11.2024 has directed the Regional Passport Officer to renew the passport as per the rules and notification of the passport authority. Learned advocate for the petitioner submits that the petitioner had applied for renewal of the passport for the period of 10 years, however, the respondent has renewed the passport for a period of 1 year from 10.12.2024 to 09.12.2025. He submits that the petitioner is in business of running car studio and therefore has to travel to various neighboring countries. The petitioner also needs to travel for business expansion and to import goods and material necessary for his business operations. He submits that since the petitioner's passport is valid only for 1 year, it is restricting his travel abroad as and when required. He, therefore, submits that appropriate direction be passed since the petitioner is well settled in business and has no intention of absconding.

3.1 Learned advocate for the petitioner in support of his submissions has relied upon the judgment of the Division Bench

of Bombay High Court reported in 2014 SCC Online Bom 356 – *Narendra K. Ambwani v. Union of India & Ors.* wherein the Bombay High Court has issued guidelines to be followed by the passport authorities where the Trial Court has directed that the passport may be renewed as per the rules.

4. *Per contra*, Mr. Pradip D. Bhate, learned advocate for the respondent No.2 has submitted that the passport of the petitioner has been renewed from time to time in terms of the GSR Notification 570(E) dated 25.08.1993. He submits that where the order of the Trial Court grants permission to travel abroad for a period of less than 1 year but does not specify the period, the passport has to be renewed only for 1 year. He submits that in view of said Notification, the passport authorities have issued the passport as per the rules and the prevalent notifications. He submits that, however, there is no restriction on this Court to issue a direction for issuance of the passport for a certain period of validity as per the rules. He, therefore, submits that appropriate directions be passed accordingly.

5. Considered the submissions and perused the documents on record.

6. It is not disputed that the FIR under Sections 4 and 5 of the Gambling Act came to be registered against the petitioner, charge-sheet came to be filed and a Criminal Case No.199 of 2019 is pending before the Trial Court. By order dated 20.11.2024, the Additional Chief Judicial Magistrate, Sanand has passed an order directing that the passport of the petitioner is permitted to be renewed as per the rules and regulations applicable to renewal of passport.

7. The GSR Notification 570(E) dated 25.08.1993 reads as under:-

> *"G.S.R 570 (E)-In exercise of the powers conferred by clause (a) of the Section 22 of the Passports 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 offences 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 :-*
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> *(a) the passport to be issued to every such citizen shall be issued-*
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> *(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*
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> *(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 or a period one year.*
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> *(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*
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> *(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 period of travel abroad specified in the order.*
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> *(b) any passport issued in terms of (a) (ii) and (a) (iii) above can be further renewed 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.*
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> *(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of 3 fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;*
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> *(d) the said citizen shall given 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 in force of the passport so issued."

8. Clause (ii) thereof states that if there is no period specified in the order passed by the Trial Court for issuance of passport, the passport shall be issued for a period of 1 year. The said Notification also specifies in Clause (i) that if the Court specifies the period for which the passport has to be issued, then the passport shall be issued for such a specified period.

In the present case, the passport authority has processed the renewal application of the petitioner for a period of 1 year since the Trial Court has not specified any period in its order. Further, the said order also places restriction that whenever the petitioner has to travel abroad, he has to take appropriate permission from the Trial Court.

9. The Division Bench of the Bombay High Court in writ petition No.361 of 2014 dated 13.03.2014 has held thus:-

"10. In the circumstances, we propose to issue guidelines to be followed by the Respondents on receipt of the applications for renewal 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 atleast ten years. The Regional Passport Office shall renew the passports of such qualifying applicants atleast 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.*
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> *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).*

10. Though the said decision is not binding on this Court, it has certainly a persuasive value. In the considered opinion of this Court, the ratio of the said judgment squarely applies in the facts and circumstances of the present case. In case of the petitioner herein, the Additional Chief Judicial Magistrate, Sanand has clearly directed that the application for renewal of the passport of the petitioner should be processed as per the Act and Rules framed thereunder. It is not disputed that the Additional Chief Judicial Magistrate, Sanand has not given any direction as to the period for which the passport of the petitioner should be renewed. The Central Government has issued a Notification by exercising powers vested in it under Section 6(2)(f) of the Passport Act, 1967 being GSR Notification 570(E) dated 25.08.1993. There being an ambiguity under the provisions of the Act, the Rules and the GSR Notification 570(E) dated 25.08.1993 issued by the passport authority, the Division Bench of the Bombay High Court has clarified the said ambiguity in

case of *Narendra K. Ambwani* (supra). This Court is also of the considered opinion that the passport authorities do not have any authority to decide whether the accused has a right to travel abroad and such authority is only vested in the Trial Court which can impose conditions if an application is made seeking permission to travel abroad. This Court is of the considered opinion that the directions issued by the Bombay High Court are binding upon the passport authorities to renew the passport for a period of 10 years as per the Act and the Rules.

11. In view of the aforesaid reasons and observations, the respondent authorities are directed to renew the passport of the petitioner for a period of 10 years. However, it is clarified that if the petitioner has to undertake any travel abroad, he will have to make appropriate application to the Trial Court seeking permission to travel abroad, which shall impose such conditions as it deems fit and proper in case of the petitioner. If any application for renewal of the passport is made by the petitioner, the same be decided expeditiously within a period of 4 weeks from the date of such application.

With the aforesaid directions, the present Special Civil Application is allowed and accordingly stands disposed of. Rule is made absolute to the aforesaid extent. No order as to costs.

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

KAUSHIK D. CHAUHAN