

Neutral Citation No. - 2023:AHC-LKO:76413

Court No. - 11

Case :- APPLICATION U/S 482 No. - 9876 of 2023

Applicant :- Syed Mohammad Seraj Ali

**Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
And Others**

Counsel for Applicant :- Mohd. Khalid, Ishan Baghel

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania, J.

Heard Sri Abhinash Singh Bishen, learned counsel for the applicant, Sri Anirudh Kumar, learned AGA for the State as also Sri S.B.Pandey, ASG assisted by Sri Varun Pandey, for opposite party Nos.2 and 3.

Present application under Section 482 Cr.P.C. has been filed seeking following main relief:-

"a. Direct the Learned Civil Judge (J.D.)/FTC/Judicial Magistrate, Court No. 43, Barabanki, to decide the application dated 21.08.2023 for seeking appropriate order/NOC for passport renewal, filed in Criminal Case No. 805 of 2023 (State Versus Mohd. Anees & Others) arising out of FIR No. 231/ 2021, under section 153, 153A, 505(1)(b), 120B, 34 IPC, Police Station- Ram Sanehi Ghat, District- Barabanki;

OR

Alternatively, pass an order/direction against the Regional Passport Authority, Patna, Bihar, to renew/reissue the passport of the petitioner.

b. Direct, the Ld. Civil Judge (J.D.)/FTC/ Judicial Magistrate, Court No. 43, Barabanki, to not to proceed against the petitioner in the aforesaid case without first deciding the application dated 21.08.2023 of the petitioner, on merits.

c. Pass an order/direction against the Regional Passport Authority, Patna, Bihar, to not to close the file of the petitioner."

This Court after considering the facts, as pleaded, vide order dated 17.10.2023 directed the District Judge, Barabanki

to submit a report before this Court with regard to the facts mentioned in para 26 of the application. The relevant portion of the order dated 17.10.2023 on reproduction reads as under:-

"District Judge, Barabanki, is also directed to submit a report with respect to the facts mentioned in paragraph 26 of the application that whether, any letter has been issued by the Civil Judge, J.D./F.T.C. Court no.43, Barabanki, after calling report from the court concerned and the report shall be sent in sealed cover, within a period of ten days, through Senior Registrar of this Court."

In compliance of the aforesaid order, the District Judge, Barabanki, vide his letter dated 28.10.2023 submitted a report submitted by the concerned Presiding Officer. It reflects from the report of the Presiding Officer dated 28.10.2023 that the application in issue dated 21.08.2023 preferred by the applicant with regard renewal of passport has already been rejected by the concerned Court vide order dated 21.08.2023. The relevant portion of the letter read as under:-

"दांडिक वाद संख्या-805/2023/अपराध संख्या-231/2021 पासपोर्ट नवीनीकरण हेतु एन०ओ०सी प्रदान किये जाने सम्बन्धी प्रार्थना पत्र पर प्रार्थी को सुनने के उपरान्त न्यायालय द्वारा ए०पी०ओ की रिपोर्ट का अवलोकन किया गया। प्रार्थना पत्र पर ए०पी०ओ की रिपोर्ट में यह कहा गया है कि "अभियुक्त आरोपित है एवं अपराध गंभीर प्रकृति का है।" अतः मामले की तथ्य, परिस्थितियों एवं गंभीरता को देखते हुए तथा प्रार्थी/अभियुक्त को न्यायालय के समक्ष विचारण हेतु उपस्थिति सुनिश्चित करने हेतु मेरे द्वारा प्रार्थना पत्र दिनांक 21.08.2023 को खारिज कर दिया गया तथा उसके क्रम में क्षेत्रीय पासपोर्ट कार्यालय, पटना को प्रार्थना पत्र दिनांकित 21.08.2023 को इस आशय का प्रेषित किया गया कि श्री सैय्यद मोहम्मद सिराज अली मुकदमा अपराध संख्या-231/2021 अन्तर्गत धारा 153, 153A, 505 (1)(b), 120B, 34 भारतीय दंड संहिता, थाना-रामसनेहीघाट, बाराबंकी का पासपोर्ट यदि नवीनीकरण कर दिया गया तो अभियुक्त की न्यायालय में अनुपस्थिति एवं फरार होने की प्रबल सम्भावना है। अतः न्याय हित में अभियुक्त को पासपोर्ट के पुनः नवीनीकरण की अनुमति दिया जाना न्यायसंगत नहीं होगा।"

On being pointed out the aforesaid, the learned counsel for the applicant says that he may be permitted to withdraw this application with liberty to file fresh application assailing the order dated 21.08.2023.

To the aforesaid, there is no objection.

Accordingly, the application is **dismissed as withdrawn with aforesaid liberty.**

The letter of the District Judge, Barabanki dated 28.10.2023 alongwith report of Presiding Officer concerned dated 28.10.2023 shall be made part of record.

Order Date :- 21.11.2023

Vinay/-