

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.19551 of 2015(O&M)
Date of Decision: 13.10.2015**

Sahib Jaskaran Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr. Vivek Khatri, Advocate
for the petitioner.

Mr. Vivek Singla, Advocate
for respondents No.1, 3 and 4.

Mr. Neeraj Yadav, AAG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner was issued a passport on 24.09.2013, which is stated to be valid upto 23.09.2023. An adverse police report was received by the Passport Authorities stating that an FIR No.238 dated 03.09.2012 under Sections 307, 148, 149 IPC and Sections 25/27/54/59 of the Arms Act was registered against the petitioner. Thereafter, a show cause notice was issued to the petitioner on 04.04.2014 calling upon him to surrender his Passport No.L-2710827 and also to explain as to why the action be not taken to impound the Passport under Sections 10(3)(b) and 12(1)(b) of the Passports Act, 1967. Pursuant to the aforesaid show cause notice, the petitioner submitted an affidavit dated 29.04.2014 stating that the criminal case

has been compromised and the matter is pending in the Trial Court for cancellation of the FIR. He also surrendered his passport.

The petitioner has filed this writ petition seeking direction to the respondent to release the passport. It had been stated that the criminal case has been compromised with the complainants and earlier a cancellation report was also filed, which was rejected by the learned trial Court on 31.10.2013. The matter was directed to be investigated by the SSP, Tarn Taran. The SSP, Tarn Taran after investigation also found that the allegations against the petitioner were false and recommended that the cancellation report be accepted. The learned trial Court took on record the cancellation report and gave opportunity to the complainant to file protest petition. It is stated that the complainant has not filed any protest petition so far.

Learned counsel for the petitioner has stated that other than the aforesaid case, there is no other case pending against the petitioner in any court of law. The petitioner is engaged in the profession of modeling for earning his livelihood. He has signed many contracts with private companies and is required to travel abroad in connection therewith. He has impugned the action of the respondents in not releasing his passport despite repeated communications to them.

In the written statement filed on behalf of the respondent No.4, it has been stated that the passport application of the petitioner is lying pending for want of clear police verification report.

When this case came up for hearing on 01.10.2015, this Court directed respondent No.5 to send the necessary police verification report to respondent No.4 within 10 days.

Mr. Neeraj Yadav, AAG, Punjab states that the police verification report has been sent by respondent no.5 mentioning about the registration of FIR No.238 dated 03.09.2012 against the petitioner and stating that the cancellation report submitted in that case has not yet been accepted by the Trial Court.

Heard learned counsel for the parties.

It appears that the passport of the petitioner is not being released solely on the ground of pendency of FIR No.238 dated 03.09.2012 against him. The question to be considered is whether a citizen can be denied the passport merely on the ground that a criminal case is registered against him.

This very question was considered by this Court in **Daler Singh Vs. Union of India and ors** CWP No.12143 of 2015.

Taking note of the fact that as per Sections 6(2) and 10 (3) of the Passports Act, 1967, a passport can be refused or revoked or cancelled on the ground '*that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India*', and that proceedings in respect of a criminal case can be said to be pending before a criminal court only when cognizance has been taken by the criminal court, it was held that a passport cannot be refused or cancelled only on the ground of registration of an FIR.

In the present case, as per the pleadings of the parties, the petitioner's passport is not being released merely on the ground of pendency of the FIR and that the cancellation report submitted by the police has not yet been accepted by the Trial Court. Clearly, this is not a ground for which the passport can be refused or cancelled or impounded.

In view of above, this petition is disposed of with a direction to respondent No.4 to release the passport to the petitioner, if there is no other legal impediment, except the registration of the aforesaid case. However, it is directed that the manner of the use of the passport for travel outside will be subject to the orders of the appropriate criminal court of competent jurisdiction in respect of the FIR registered against the petitioner. The petitioner will himself approach the concerned Court, and seek appropriate directions to travel abroad, if he intends to use the passport for such a purpose.

13.10.2015

Atul

**(HARINDER SINGH SIDHU)
JUDGE**