

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

CWP No. 18740 of 2011(O&M)

Date of decision: 29.03.2016

Narotam Puri

....Petitioner

Versus

Union of India and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

Present: Mr. A.S. Dhaliwal, Advocate,
for the petitioner.

Mr. Vivek Singla, Sr. Panel counsel
for respondents No. 1 and 2.

Mr. S.S. Chandumajra, Addl. A.G., Punjab.

Paramjeet Singh Dhaliwal, J. (Oral)

The instant petition has been filed for issuance of a writ of mandamus, directing respondent No. 2 to release the passport of the petitioner.

In pursuance of notice of motion, separate replies in the form of affidavits have been filed on behalf of respondents No. 1 to 3.

Respondents Nos. 1 and 2 in their reply have stated that the Superintendent of Police, Moga, after verification of the antecedents of the petitioner reported that he is involved in two criminal cases, bearing FIR No. 57 dated 06.04.2009 and FIR No. 59 dated 07.04.2009, registered under Section 188 IPC at Police Station City Moga and the petitioner was requested to furnish certified copy of Court judgment in both the cases. However, he failed to do so and instead filed the present writ petition.

Respondent No. 3 in its reply submitted that total three cases were registered against the petitioner. In FIR No. 173 dated 05.10.1997, registered under Sections 451/427/448 IPC at Police Station Bagha Purana, cancellation report was prepared on 20.05.1999, after completion of investigation. In case FIR No. 57 dated 06.04.2009, registered under Section 188 IPC at Police Station City Moga, the untraced report was prepared on 28.03.2011, which was accepted by the Court of CJM, Moga on 30.04.2012 and in case FIR No. 59 dated 07.04.2009, registered under Section 188 IPC at Police Station Baghapurana, untraced report was prepared on 23.03.2011 and produced before the Illaqa Magistrate, Moga on 29.11.2011. It has further been stated that except above three FIRs, no other case has been registered against the petitioner and he is not required by the District Police, Moga in any other case.

I have heard learned counsel for the parties.

Learned counsel for the petitioner contends that vide order dated 30.4.2012 (Annexure A-1) passed by the Chief Judicial Magistrate, Moga and the order dated 28.11.2011 (Annexure A-2), passed by the Additional Chief Judicial Magistrate, Moga, untraced reports submitted in case FIR No. 57 dated 06.04.2009 and FIR No. 59 dated 07.04.2009 have been accepted. As far as third FIR No. 173 dated 05.10.1997 is concerned, when this case came up for hearing on 19.01.2016, learned State counsel informed that cancellation report in this case has been submitted but was yet to be accepted by the Court. Learned counsel for the petitioner has relied upon judgment of single

Bench of this Court in *CWP No. 12143 of 2015* titled as *Daler Singh Vs. Union of India and others*; *CWP No. 19551 of 2015* titled as *Sahib Jaskaram Singh Vs. Union of India and others*, wherein it has been held that 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, a passport cannot be refused or cancelled or impounded.

Learned counsel for the respondents could not controvert that the proposition of law enunciated in the aforementioned two judgments of this Court, relied upon by the learned counsel for the petitioner, is fully applicable to the case in hand.

In view of above, the present petition is disposed of with a direction to respondent No. 2 to release the passport to the petitioner within **four weeks** from today, if there is no other legal impediment, except the registration of the aforementioned FIRs in which untraced report/cancellation report has been submitted. 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 FIRs 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.

29.03.2016
PA

(Paramjeet Singh Dhaliwal)
Judge