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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 571/2016**

HARSATINDER PAL SINGH HAYER & ANR Petitioners

Through: Mr.Aman Lekhi, Senior Advocate
with Mr.Gaurang Kanth, Mr.Rajeev
Yadav, Ms.Shivani Kher and
Mr.Sarthak, Advocates.

versus

STATE OF NCT (DELHI) & ANR Respondents

Through: Mr.Narender Mann, Special PP for
CBI/R-1 with Mr.Manot Pant,
Advocate and Mr.Anil Rawat,
Inspector, CBI.
Ms.Ruchi Jain, Adv. for UOI/R-2.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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05.05.2016

1. The petitioners have invoked the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India read with Section 482 CrPC praying for issuance of directions to the CBI to release their original passports as there is no FIR or charge sheet against them.

2. Response to the petition has been filed by the CBI/R-1.

3. Mr.Aman Lekhi, learned Senior Advocate for the petitioners has submitted that the passports of the petitioners have been impounded by the CBI during the investigation of RC No.BDI/2014/E0004/CBI/BS&FC/ND. Learned Senior Advocate for the petitioners has referred to the communication dated 18.01.2016 by Regional Passport Officer, Chandigarh addressed to Superintendent of Police, CBI, BS&FC, New Delhi regarding

impounding of passport No.J-8504284 dated 05.10.2011 and J-8504282 dated 05.10.2011 of Barinder Kaur and Harsatinder Pal Singh i.e. the petitioners herein, which reads as under:-

'Reg: No. Com-45/2015-PRO/CDG/Poll.Gr.II 18/01/16

*Sh. Jasbir Singh
Superintendent of Police
CBI, BS&FC, New Delhi.*

Sub: Impounding of passport no. J-8504284 dated 05.10.2011 and J-8504282 dated 05.10.2011 of Smt. Barinder Kaur and Sh. Harsatinder Pal Singh.

Sir,

This is with reference to your letter no. 118 RC. BDI/2014/E/CBI/BS&FC/Delhi dated 07.01.2016 on the subject cited above. In compliance of order dated 07.12.2015 passed by the Hon'ble High Court of Delhi at New Delhi in writ petition (Cr.) no. 2192 of 2015 matter has been referred to Ministry of External Affairs, New Delhi for their instruction in the matter.

*In reply Ministry vide e-mail dated 11.12.2015 has directed to this office **that if there is no FIR or charge sheet filled in any court, then there is no provision to Impound the passport as per Passport Act, 1967** and ask that passports be returned to the passport holders.*

In view of above both the passport in original are being forwarded to you for final disposal at your end.

Yours faithfully

*Encl: Original passport No. J-8504284
& J-8504282*

*Sd/-
For Regional Passport Officer
Chandigarh'*

4. Learned Senior Advocate for the petitioners has submitted that since the petitioners herein have not been named as an accused in the FIR, the CBI may be directed to release their passports.

5. Mr.Narender Mann, learned Special PP for CBI has submitted that though the charge-sheet was not filed by the time reply to this petition has been filed by the CBI but now the charge-sheet has been filed in this case, however further investigation is still continuing.

6. On being specifically questioned as to whether the petitioners herein have been made accused in the charge-sheet filed by the CBI, learned Special PP fairly conceded that so far as these petitioners are concerned, they have not been made accused in the charge-sheet filed by the CBI, however, investigation against them is continuing.

7. In the given facts and circumstances, since the charge-sheet has already been filed by the CBI merely because further investigation in the matter is still in progress, is no ground to retain the passport of the petitioners.

8. The CBI, BS&FC Branch, New Delhi is directed to release the passports of the petitioners. However, as further investigation is still in progress, it is directed that as and when the petitioners intend to visit abroad, they shall inform in advance their itinerary to the office of CBI, BS&FC Branch, New Delhi.

9. Writ petition stands disposed of.

As prayed, copy of the order be given dasti to learned counsel for the parties.

PRATIBHA RANI, J.

MAY 05, 2016/ 'st'