

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

CWP No.13293 of 2016
Date of decision : 16.05.2017

Akash Batta

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Swarn Gupta, Advocate for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Vivek Singla, Advocate for respondent No.1.

AMIT RAWAL, J. (Oral)

Written statement on behalf of respondent No.1 has been filed in the Court today. Same is taken on record. Copy thereof has been supplied to the counsel opposite.

The petitioner has knocked the door of this Court seeking direction to respondent Nos.1 and 2 to issue the passport to the petitioner.

Mr. Swarn Gupta, learned counsel appearing on behalf of petitioner submits that petitioner has applied for fresh passport vide letter No. CH4069445259415 on 11.12.2015 before the office of Regional Passport Office, Chandigarh-respondent No.2. The petitioner was called by Regional Passport Office, Chandigarh-respondent No.2 and token No.85 was given to the petitioner and he submitted all his documents.

He further submits that owing to the registration of FIR bearing No.95 dated 16.04.2014 under Sections 341, 323, 324, 506, 148, 149 IPC at Police Station Mandi Gobindgarh District Fatehgarh Sahib against him, Regional Passport Office, Chandigarh-respondent No.2 has not issued fresh passport to him, and thus, has sought the indulgence of this Court for issuance of appropriate direction to respondent Nos.1 and 2 to issue the passport. In support of his contention, relied upon a notification dated 25.08.1993 to contend that in case the petitioner has to travel abroad, it can issue passport for a period specified by the Criminal Court where the matter is seized of. The relevant portion of the notification issued as per the provisions of clause (f) of sub-section 2 of Section 6 of the Passport Act reveals as under:-

“GSR 570(E) - In exercise of the powers conferred by clause (a) of 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.GSR 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 offence 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:-

(a) the passport to be issued to every such citizen shall be issued--

(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

(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 for a period one year;

(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

(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 the period of travel abroad specified in the order.

(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;

(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give 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.

No. Vf4013779J

L.K. PONAPPA, Jt. Secy. (CPV)”

He submits that in view of the aforementioned Notification, the applicants who are facing the criminal prosecution in India can be issued passport for one year but subject to the order of the Court.

Mr. Vivek Singla, Advocate for the Union of India submits that for issuance of passport for a period of one year, there has to be permission from the Criminal Court in India. It is only on these circumstances, passport can be issued by the authority.

I have heard learned counsel for the parties and appraised the paper book and of the view that in view of the Notification, petitioner can be issued a passport for a period of one year.

Keeping in view of the aforementioned facts, I deem it appropriate to dispose of the present writ petition with a direction to respondent No.2 to consider the application made by the petitioner (Annexure P-1) and issue a fresh passport to the petitioner within a period of one month strictly as per the notification, however, subject to the fact that the petitioner shall have to seek permission of the Criminal Court to travel abroad.

The writ petition stands disposed of in the above terms.

16.05.2017

Pawan

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No