

104+210 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.26808 of 2018 (O&M).
Date of Decision: 29.05.2019

Manjinder Singh

.....Petitioner

Versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. K.S. Dadwal, Advocate,
for the petitioner.

Mr. Sudhir Nar, Advocate, Sr. Panel Counsel,
for applicant-respondent Nos. 1 & 2.

Ms. Samina Dhir, DAG Punjab.

JITENDRA CHAUHAN J.
CM-6846-CWP-2019

The application is allowed as prayed for. Short reply filed on behalf of respondent Nos. 1 & 2 is taken on record subject to all just exceptions.

Main case

Prayer in the present petition filed under Articles 226/227 of the Constitution of India, *inter alia*, is for issuance of a writ of Mandamus, directing respondent No.2 to re-issue Passport to the petitioner.

The passport held by the petitioner was cancelled by the respondents on the ground of his involvement in a criminal case. No action has been taken so far on the application dated 01.12.2016 made by the petitioner for re-issuance of the passport.

The petitioner initially, had been kept in column No.2

however subsequently on application filed under Section 319 Cr.P.C, the petitioner was summoned as an accused in FIR No. 71 dated 04.09.2013 registered under Sections 307 and 336 IPC and Section 27 of Arms Act, 1959 at Police Station Fattu DHINGA, District Kapurthala. The trial is in progress. It is asserted that the right of the petitioner to hold a passport cannot be taken away merely on the ground of the registration of the FIR. It is a case of version and cross-version.

On the other hand, learned counsel for respondent Nos.1 and 2 refers to Section 6(2)(f) of the Passport Act, 1967, which empowers the Passport authorities to refuse to issue passport to a person against whom criminal proceedings are pending before a competent Court in India.

Learned State counsel submits that though the petitioner has been found innocent in the enquiry and was placed in column No.2 of the challan, the trial Court is yet to decide the matter. Thus, the presence of the petitioner may be required during trial.

Heard.

This Court, while dealing with a similar controversy in ***Sahib Jaskaran Singh Vs. Union of India and others (P&H), 2016 (2) R.C.R. (Criminal) 798***, has held as under:-

“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 the present case as well, the re-issuance of passport has been denied to the petitioner only on the ground of pendency of the criminal proceedings.

In view of the above, as the petitioner has already moved an application for re-issuance of a Passport, the instant petition is

disposed of with a direction to respondent No.2 to release the passport to the petitioner, if there is no legal impediment, except the registration of the aforesaid case. However, the petitioner shall not leave the country without the written permission of the trial Court.

Disposed of.

29.05.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No