

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

CRM-M-39831-2019 (O&M)

Date of decision : 15.10.2019

Jaswinder Singh @ Shinder Sarpanch

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kawaljyot Singh, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

ANIL KSHETARPAL, J. (ORAL)

Prayer in the present petition is to set aside the order passed by the learned Sub Divisional Judicial Magistrate, Nahal Singh Wala dismissing application filed by the petitioner to return the passport enabling the petitioner to apply for passport of his children. Petitioner is accused in FIR No.08 dated 17.01.2018 registered under Sections 212/216/216-A of IPC and 25/27/54/59 of Arms Act at Police Station Badhni Kalan.

Learned Sub Divisional Judicial Magistrate, has dismissed the application on the ground that while deciding bail application of the petitioner, the Court of Sessions had directed the petitioner to surrender the passport, therefore, it would not be appropriate for Sub Divisional Judicial Magistrate to order return of the passport.

Case is pending before Sub Divisional Judicial Magistrate. Hence, Sub Divisional Judicial Magistrate is the Presiding Judge of the Court where the trial is pending. The order passed by the Court of Sessions

was only with respect to grant of bail. Through this application, prayer is not to permanently return the passport. A limited prayer has been made that the passport be released enabling the petitioner to apply the passport of his children which have been specifically named in para 3 of the petition. Hence, learned Magistrate should have decided the application on merits.

Learned counsel for the respondent submits that there are as many as 11 criminal cases against the petitioner. A look at the list shows that the petitioner has been acquitted in two and in one case, cancellation report has been submitted.

Be that as it may. Limited prayer is to release the passport for limited time enabling the petitioner to apply for passport of his children.

Keeping in view the prayer made, which appears to be bona fide, learned Sub Divisional Judicial Magistrate is directed to release the passport of the petitioner for a period of 15 days on furnishing heavy surety. It shall be the responsibility of the petitioner to intimate the date on which the petitioner wants his passport after taking appointment from the passport office and he shall surrender the passport after 15 days from the date of its release. Petitioner shall also file an undertaking that he shall not leave the country without explicit permission of the Court.

In view of the above, the present petition is disposed of.

15.10.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No