

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

CRM-M No.14955 of 2020 (O&M)

Date of Decision: 06.07.2020

(Heard through VC)

Sushil Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Anurag Chopra, Advocate
for the petitioner.

Mr. Harpreet S. Multani, AAG, Punjab
for respondents No.1 and 2.

Ms. Shweta Nahata, Advocate
for respondent No.3.

JAISHREE THAKUR, J. (ORAL)

The petitioner herein is aggrieved against the order dated 18.10.2019 (Annexure P-7) whereby the application filed before the JMJC Jagraon for getting his passport issued/renewed from the passport authorities has been declined on the ground that the proceedings before the trial Court in FIR No.11 dated 03.02.2012 under Sections 323, 341, 294, 506 and 149 IPC registered at Police Station Raikot have been stayed by the High Court in CRM-M No.12091 of 2016.

In brief, the facts are that the petitioner had been summoned to face trial in the aforementioned FIR. A cross FIR was also registered against the petitioner herein. During the pendency of the proceedings before the trial Court, the matter was compromised between the petitioner and the complainant in the cross FIR, and on that basis a quashing petition was filed

in High Court, which is pending consideration. In the quashing petition, this Court had directed the trial Court to adjourn the matter beyond the date given by this Court. The passport of the petitioner expired on 24.02.2015 and therefore, he filed an application dated 01.08.2019 seeking permission to apply for a passport to respondent No.3. However, the said application was dismissed by the JMIC, Jagraon on the ground that the High Court had stayed proceedings before the court arising out of the FIR against the petitioner and hence, the application was not maintainable.

Learned counsel appearing on behalf of the petitioner assails the said order on the ground that under Section 6(2)(f) of the Passport Act, 1967, it is fundamental right of the petitioner to apply for a passport and therefore, only on account of the proceedings having been stayed by the High Court, the JMIC could not have declined permission to apply for a passport from the authorities concerned. He would also rely upon some orders wherein accused in various trials had sought permission to get a passport issued and the said applications had been allowed. Seeking parity with such similarly situated persons, the petitioner seeks indulgence of this Court to grant permission to apply for issuance of a passport.

Learned counsel appearing on behalf of the respondent-State opposes the prayer, while submitting that the petitioner herein is an accused in the aforementioned FIR.

I have heard learned counsel for the parties and find that the impugned order is not sustainable. Admittedly, the proceedings in the FIR have been stayed by the High Court as the matter has been compromised. Due to COVID-19 Pandemic, the matter has not been taken up for hearing.

However, it is well settled law that the petitioner being a citizen of India is entitled to apply a passport or for re-issuance of a passport, which would be allowed to him subject to him complying with all formalities as required under the Rules. The pendency of the proceedings before the courts would not be a hindrance to him applying for renewal/re-issue of a passport. However, the petitioner would not be permitted to travel abroad without the permission of the courts.

Counsel for the petitioner has also stated that the petitioner undertakes that he will not leave the country without prior permission of the Court.

Therefore, the instant petition is disposed of by giving permission to the petitioner to apply for a passport to respondent No.3 subject to the condition that petitioner shall furnish an undertaking before the trial Court that he will not leave the country without prior permission of the Court within a period of 7 working days from today. The respondent No.3 is directed to consider the application of the petitioner for issuance of a passport and decide the same within a period of one month from the date of receipt of certified copy of this order.

(JAISHREE THAKUR)
JUDGE

July 06, 2020
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No