

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.18385 of 2020

Date of Decision:10.12.2020

Yogesh Kumar

.....Petitioner

Versus

Union of India and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Anuj Garg, Advocate
for the petitioner.

Ms. Shweta Nahata, Advocate
for respondent-UOI.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner seeks a direction to the respondents for issuance of a passport to the petitioner in a time bound manner.

It is submitted that the petitioner, aged 23 years, had applied for issuance of a passport on 26.09.2020. However, due to pendency of FIR No.443 dated 29.12.2019, under Sections 147, 149, 323, 452, 509 IPC, Police Station Khol, District Rewari, passport has not been issued to the petitioner.

Ms. Shweta Nahata, Advocate, learned counsel for respondent-UOI, points out that in the application for issuance of a passport submitted by the petitioner, pendency of FIR has not been mentioned. It is only on police verification that the same came to light. The respondent-authorities, it is submitted are well within their right to deny the passport to the petitioner.

Learned counsel for the petitioner submits that the application form was got filled at a cyber café with the aid of a person over there. It is

due to this reason that pendency of FIR, was not mentioned. It is further submitted that there cannot be any question of permission to be sought from the trial Court as charge against the petitioner has not yet been framed. It is further submitted that the petitioner shall submit his specific affidavit before the authorities in respect to pendency of the said FIR, its stage and the petitioner would further undertake to update the authorities on the framing of the charge, if at all, against him. Moreover, the petitioner will not in any manner travel on the said passport without requisite permissions in accordance with law. It is thus, prayed that this petition be allowed.

The matter sought to be agitated in this respect, is no longer *res integra*. It is a settled position that the passport authorities cannot refuse or cancel a passport merely on the ground of registration of a FIR. Section 6 (2) (f) and 10 (3) of the Passport Act, 1967, provide that such refusal/ revocation/ cancellation is to be invoked only in the event of proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal Court in India.

Admittedly, in the present case, cognizance has not been taken by the criminal Court. The provisions thus do not come into effect. The petitioner, can, therefore, not be refused passport on the sole ground that FIR stands registered against him. Reference in this regard can gainfully be made to decision dated 01.10.2015 of a Coordinate Bench in **CWP No. 12143 of 2015, titled as Daler Singh Vs. Union of India and others**, wherein the matter has been dealt with in great detail and **Sahib Jaskaran Singh Vs. Union of India and others, 2016 (2) RC.R (Criminal) 798**.

Keeping in view the facts and circumstances as above, it is directed that in case, the petitioner submits a fresh application giving the entire requisite details along with affidavit as mentioned in the foregoing

paras, the concerned Regional Passport Officer, shall consider the said application in accordance with law while taking into account the aforementioned legal position. In case, the application is submitted within one week from today, necessary action thereon, shall be taken within two weeks, thereafter. It is made clear that in case the petitioner needs to travel on the said passport, it would be subject to orders of the Court of competent jurisdiction in respect to the FIR registered against him.

Petition is accordingly disposed of.

10.12.2020

s.khan

[LISA GILL]**Judge**

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.