

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.18564 of 2022

Pradipta Kumar Barisal

....

Petitioner(s)

Mr. S.S. Pratap,
Advocate

-versus-

State of Odisha & Ors.

....

Opposite Parties

Mr. S. Ghose,
Addl. Govt. Adv. for O.P.1
Mr. P.K. Parhi,
ASG of India for Odisha with
Smt. J. Sahoo,
Central Government Counsel for O.Ps.2 & 3

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
02.09.2022**

Order No.

05. 1. This Writ Petition involves the following prayer:-

“Under the facts and circumstances of the case as narrated about it is humbly prayed that Hon’ble Court would be graciously pleased to;

- i) Admit this writ application,
- ii) Call for the records from the Opp. Parties and after hearing the counsels from both the sides, allow the same and issue directions to opposite party No.2 to grant renewal of the petitioner’s passport bearing passport No. J8487757 without creating any further hindrance in the greater interest of justice,

And/ or pass any other writ/ writs, order/ orders, direction/ directions in the fitness of the case.

And for which act of your kindness the petitioner as in duty bound shall remain ever pray.”

2. Drawing the attention of this Court to Annexure-2 more particularly at page 11 of the brief, learned counsel for the Petitioner submitted that undisputedly the Petitioner is facing criminal proceeding since 2017 involving the charges U/s.143/353/283/294/506/337/286/149 of the Indian Penal Code, 1860 and also U/s.96 of the Orissa Urban Police Act, 2003. There is no dispute at Bar that all these offences are Bailable. Referring to the order at Annexure-5 learned counsel for the Petitioner submitted that the Petitioner is already on bail since 8.10.2021 involving application of Section 41(a) of the Cr.P.C. Taking this Court to the order of refusal of renewal of the Passport vide Annexure-4 more particularly at page 17 of the brief learned counsel for the Petitioner brought to the notice of this Court that such order is passed only on the ground of involvement of the Petitioner in criminal proceeding; where the Petitioner is already on bail and there is, accordingly, declining of renewal of the passport of the Petitioner.

3. Mr. Parhi, learned ASG of India taking this Court to the provision at Section 6(2)(f) of the Passports Act, 1967 attempted to justify the refusal order vide Annexure-4. Mr. Parhi, learned ASG of India has, however, no dispute with regard to the consideration of similar nature of disputes by this Court through judgment dated 23.03.2022 in W.P.(C) No.4834 of 2022.

4. Considering the rival contentions of the parties and on perusal of the provision at Section 6(2)(f) of the Passports Act, 1967 this Court finds, in similar situation taking into consideration the

judgment of the Hon'ble apex Court even involving serious criminal cases along with judgments of several High Courts, this Court while disposing of the writ petition vide W.P.(C) No.4834 of 2022, has come to observe that mere pendency of criminal proceeding for long years and involving all Bailable offences, admittedly when the Petitioner is on bail, the provision at Section 6(2)(f) of the Passports Act, 1967 should not stand as a bar either in consideration of the request for renewal of the Passport or issuance of new passport.

5. Keeping in view the settled position of law, this Court while finding no force in the submission of Mr. Parhi, learned ASG of India, directs the Passport Authority to complete the exercise of renewal of the Passport of the Petitioner at least within a period of two weeks from the date of communication of a certified copy of this order by the Petitioner. It is also made clear that formal undertakings may also be obtained from the Petitioner before release of the Passport. Petitioner shall give the undertaking that he will join the Criminal Courts immediately on such requirement by the competent Court in India even during his remaining outside the Country. Petitioner will also give further undertaking through affidavit that in the event the Petitioner fails to attend to the asking of the authority, the VISA, if any, shall automatically be cancelled.

6. Let the Petitioner submit this order along with the judgment of this Court so also necessary affidavit before the competent authority within a period of three working days hence.

7. The writ petition stands disposed of with the above order.

(Biswanath Rath)
Judge