

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

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CWP-3207-2022

Date of decision: 23.08.2022

Harjeet Singh

.... Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

Ms. Monica Chawla, Advocate,
for respondents No.1 and 2-UOI.

Mr. Rajesh Mehta, Addl. AG, Punjab,
for respondent No.3.

VIKAS SURI, J. (Oral)

This petition has been filed seeking a writ in the nature of mandamus for directing the Regional Passport Office, Amritsar to renew/reissue the passport after making changes in the personal particulars by adding the name of the spouse of the petitioner, which was applied on 10.11.2021 (Annexure P-5).

It has been submitted in the petition that the petitioner had got married to one Ramandeep Kaur on 19.09.2021, as per the marriage certificate dated 17.11.2021 (Annexure P-3) and the name of the spouse was to be entered in the passport of the petitioner. However, the respondents did not receive a clean verification report on account of pendency of investigation in FIR No.88, dated 13.08.2017, registered under Sections 447, 427, 506, 148 and 149 IPC, at Police Station Chohla Sahib, District Tarn

Taran.

A status report by way of affidavit of Jagir Singh, PPS, Deputy Superintendent of Police, PBI, Special Crime cum Supervision Officer, Police Stations Sarhali and Chohla Sahib, District Tarn Taran, on behalf of respondent No.3 has been filed. It is brought on record thereby that the matter was investigated in the said FIR and the petitioner was found innocent. Accordingly, a cancellation report has been submitted to the Court of Illaqa Magistrate. The said court has not accepted the cancellation report and passed an order to further investigate. The complainant had sought time to file the protest petition and the matter was adjourned to 16.08.2022 by the concerned Court. It is the conceded position that FIR case is still at the investigation stage and the Court has yet not taken cognizance of the alleged offences. In the status report, it has also been submitted that the complainant at whose instance the aforesaid FIR was registered, is a habitual offender and has as many as six FIRs registered against him under various Sections of the IPC and the Arms Act, ranging between the years 2001 to 2020.

The contesting respondent Nos.1 and 2 have filed a short reply, wherein reference to the adverse police verification report dated 18.12.2021 with regard to the aforesaid FIR has been made. It has also been brought on record that the passport authority had sought information from the Senior Superintendent of Police, Tarn Taran on 23.03.2022 for being apprised of the current status in the FIR case and whether the challan had been presented and also to know about the present stage of the proceedings. Having received no response in that regard, a system generated reminder was also issued on 26.04.2022, but no response is stated to have been received till the date of preparing the aforesaid reply.

Learned counsel for respondent Nos.1 and 2 has submitted that she has received instructions today morning only that as per response dated 11.07.2022 received from the police, wherein reference to the pending FIR has been made, and recommendation for not issuing the passport has been given.

I have heard learned counsel for the parties and perused the record.

It is the conceded position that in the FIR case the concerned Court is yet to take cognizance and in the investigation done by the police, the petitioner was found innocent. However, on account of the cancellation report not being accepted by the concerned Court, it cannot be said that the Court has taken cognizance of the alleged offences and as such, would be an embargo for issuance of the passport under the provisions of Section 6(2) (f) of the Passports Act, 1967 (hereinafter referred to as “the Act”). The law is well settled and different coordinate Benches of this Court in ***Daler Singh vs. Union of India and others***, AIR 2015 P&H 206 and ***Sahib Jaskaran Singh vs. Union of India and others***, 2016(2) RCR (Criminal) 798, have categorically held that the issuance of passport cannot be refused merely on account of pendency/registration of FIR, wherein charges have yet not been framed against the applicant. It is also well settled that a Court takes cognizance of the FIR only when charges are framed against the accused. No other material has been brought to the notice of this Court that would disentitle the petitioner from pressing his claim for seeking issue/reissue of the passport.

In view of above, I am of the considered view that refusal to issue/re-issue the passport on the sole ground of pendency of FIR, of which

the concerned Court has not even taken cognizance as yet, would not fall within the ambit of Section 6(2) (f) of the Act and as such cannot be a sustainable ground.

Accordingly, this petition is disposed of with the directions to respondent No.2 to consider and process the application for issue/re-issue of the passport, which has been applied on 10.11.2021 (Annexure P-5).

Needless to say that the authorities would now act expeditiously to process the application of the petitioner for issuance of the passport in accordance with law. As the application has been pending since November of last year, the needful be done within a period of two months from the date of receipt of certified copy of this order.

(VIKAS SURI)
JUDGE

23.08.2022
monika

Whether speaking/reasoned : Yes
Whether reportable : Yes