

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

209

CWP No.4992 of 2021

Date of Decision: 11.10.2022

Amritpal Singh

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Avtar Singh Khinda, Advocate, for the petitioner.

Mr. Arjun Sheoran, DAG, Punjab, for respondent Nos.2 and 4.

VIKAS SURI, J. (Oral)

The petitioner by way of this petition under Article 226/227 of the Constitution of India, seeks a writ in the nature of mandamus directing respondent No.3 to release his passport.

The grievance pleaded by the petitioner is that his passport, which was valid till 05.10.2025, got damaged while his clothes were being washed. The petitioner had approached the passport authorities for issue of a fresh passport with the same credentials/validity, as such.

The aforesaid process got stalled on account of adverse police verification report referring to case FIR No.99, dated 03.09.2018 under Sections 431, 447, 434, 506, 427, 148, 149 IPC registered at Police Station Talwandi Chaudharian, District Kapurthala, in which petitioner was implicated and after investigation the police had prepared cancellation report

that was presented before the concerned court. However, in the meanwhile, the complainant of the FIR filed a private complaint on the same cause of action and the same is also pending before the Magistrate, but summoning order in the said complaint has not been issued.

Subsequently, case FIR No.78, dated 18.11.2019 under Sections 323, 324, 506, 148 and 149 IPC, was registered at Police Station Talwandi Chaudharian, District Kapurthala.

The categoric stand of the petitioner is that the petitioner was falsely implicated in the said FIR and till date though *challan* has been presented in the said FIR as well as in the cross-version on 22.10.2020, but the petitioner has not been chargesheeted with any offence in the said FIR, till date.

Notice of the petition was issued by recording the contention of the petitioner that in view of the provisions of the Passports Act, 1967, the respondents were not authorized to withhold the passport.

Upon notice, reply by way of affidavit of Dr. Manpreet Shinhmar, PPS, Deputy Superintendent of Police, Sub-Division Sultanpur Lodhi, District Kapurthala, on behalf of respondent Nos.2 and 4 has been filed.

On 21.09.2022, the following order was passed:-

“Reply by way of affidavit of Dr. Manpreet Shinhmar, PPS, Deputy Superintendent of Police, Sub Division Sultanpur Lodhi, District Kapurthala on behalf of respondent Nos.2 and 4 has been filed in Court. The same is taken on record. A copy thereof has been supplied to learned counsel for the petitioner.

A perusal of the said reply would show that FIR No.99 dated 03.09.2018 under Sections 431, 447, 434, 506, 427, 148 and 149 of IPC 1860, registered at Police Station Talwandi Chaudhrian, District Kapurthala, implicating the petitioner is

pending. However, the reply would also show that after investigation, cancellation report has been filed, which is yet to be accepted by the Court.

Learned counsel would contend that the aforesaid FIR was registered at the instance of his father and as such his family is the complainant party in the said case.

It is further disclosed in the reply that another case being FIR No.78 dated 18.11.2019 under Sections 323, 324, 506, 148 and 149 IPC registered at Police Station Talwandi Chaudharian, District Kapurthala, at the instance of a family member (father) of the petitioner is pending along with cross version registered vide DDR No.24 dated 01.12.2019 under Sections 323, 341, 148 and 149 IPC. In the aforesaid case, the investigating agency has presented the challan on 22.10.2020 and the same is pending consideration before the Illaqa Magistrate. The petitioner and his family members have been implicated in the cross version.

Learned State counsel is not in a position to point out from the reply or any record as to the next date in the said case before the concerned Court or if any further proceedings have taken place after filing of the challan or if the petitioner has been charge-sheeted.

Learned counsel for the petitioner would submit that as charge has not been framed against the petitioner as yet, therefore, no criminal proceedings are pending against the petitioner, as referred to in Section 6(2)(f) of the Passports Act, 1967.

Learned counsel for respondent Nos.1 and 3, faced with the above noticed submissions, seeks short accommodation to complete instructions before further assisting the Court.

Needful be done well before the next date of hearing.

Last opportunity.

Adjourned to 11.10.2022.”

Pursuant to the aforesaid order passed by this Court, learned counsel for respondent Nos.1 to 3, on instructions from the office of the third respondent, submits that in view of the reply by way of affidavit filed on

behalf of respondent Nos.2 and 4, dated 19.09.2022, there would be no objection on account of mere registration and pendency of FIR case against the petitioner for re-issue of passport to the petitioner. However, it is clarified that the application dated 15.09.2019 for re-issue of the passport stands closed and the petitioner would have to apply afresh. It is further submitted on doing so, the petitioner's application would be considered in accordance with law and the current status of the two FIR cases and cross version be also appended with the application form.

Learned counsel for the petitioner submits that in view of the above, the present petition be disposed of in light of the submissions made by the learned counsel for respondent Nos.1 and 3.

Learned State counsel has no objection to the same and would only clarify that at the time of re-consideration, the then current status of the FIR cases would be promptly submitted to the passport authorities, on being asked.

Heard learned counsel for the parties and with their able assistance gone through the record.

Keeping in view the above, this petition is disposed of with liberty to the petitioner to apply afresh for re-issue of passport, in view of the submissions made by learned counsel for respondent Nos.1 and 3.

Needless to observe that as much time has been consumed in the present litigation, it is expected that the respondents would act promptly on receiving the fresh application from the petitioner, in accordance with law.

This petition is disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

October 11, 2022
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Whether speaking/reasoned	Yes
Whether reportable	No