

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

CWP No.14150 of 2022

Date of Decision: 27.09.2022

Inderjit Kaur

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. K.S. Dadwal, Advocate with
Mr. Naresh Kumar, Advocate for the petitioner.

Ms. Tanvi Jain, Advocate for respondent Nos.1 and 2.

Mr. Rajesh Mehta, Additional Advocate General Punjab
for respondent No.3.

VIKAS SURI, J. (Oral)

The grievance raised in this petition under Articles 226/227 of the Constitution of India is that passport is not being re-issued to the petitioner, even though there is no legal impediment for the same or embargo contemplated under Section 6(2)(f) of the Passports Act, 1967 (for short, 'the Act').

The petitioner was holder of the passport issued on 29.06.2012, which was valid till 28.06.2022. Intending to go abroad for higher education, she sought re-issue of passport and accordingly made an application dated 31.01.2022 (Annexure P-2) in that regard. The Regional Passport Office (respondent No.2) vide letter dated 07.04.2022 intimated her that it was in receipt of adverse police verification report (PVR) corresponding to her

application, referring to FIR No.171 dated 24.09.2020 under Sections 324, 323, 341, 506 and 34 IPC registered at Police Station Koom Kalan Ludhiana, which the petitioner had also disclosed in her application for re-issue of passport. In the meanwhile, petitioner received letter dated 26.05.2022 (Annexure P-4), from the University Canada West at Vancouver, British Columbia, Canada, apprising that her admission had been accepted in the Masters of Business Administration degree programme for the fall 2022 session. The said course is depicted to commence on 03.10.2022.

On notice, the third respondent i.e. SHO, Police Station Koom Kalan, Police Commissionerate, Ludhiana filed detailed reply stating therein that the petitioner and her family has been implicated in the FIR noticed above and there was also a cross case in that FIR. It is mentioned that on the basis of report of the doctor, offence under Section 325 IPC was added in the FIR vide DDR No.24 dated 06.01.2021. It has also been mentioned that accused in the cross case, namely Pardeep Singh, Jaswinder Kaur, Paramjit Kaur, Harwinder Kaur, Dharamjit Singh and Kamaljit Kaur were arrested on 10.09.2020 and thereafter on 13.09.2021, the accused in the FIR i.e. the petitioner, Jagtar Singh (her father), Jagjit Kaur (her mother) and Jaspreet Singh (her brother), were arrested in the case. However, accused Sahilpreet Singh is still at large. It has also been brought on record that challan has not been presented before the concerned Court and in that regard it is submitted that report under Section 173 Cr.P.C. will be presented after the arrest of accused Sahilpreet Singh. The relevant pleadings in that regard, reads as under:-

“11. That in reply to Para No.11 of the petition, it is submitted here that the report under Section 173 Cr.P.C. will be presented after the arrest of accused Sahilpreet Singh, who is still at large. The detailed reply has been given above.”

Learned State counsel has filed the status report dated 27.09.2022 in Court, in deference to the order dated 08.09.2022 passed by this Court, which is taken on record. Similar are the averments made in the said status report.

Learned counsel appearing for respondent Nos.1 and 2 submits that she has instructions to submit that in view of the reply filed by the police authorities, it is now brought on record that the concerned Court has yet not taken cognizance of the alleged offences against the petitioner. The status report is also on the same lines and no indication has been given therein as to when the report under Section 173 Cr.P.C. would be submitted before the concerned Court. Learned counsel further submits, on instructions, that the passport authorities would consider the application of the petitioner for re-issue of the passport, as the provisions of Section 6(2)(f) of the Act are not attracted at this stage, keeping in view the above noticed position and ratio of the judgment passed by this Court in ***Daler Singh vs. Union of India and others, AIR 2015 P&H 206***. It has been categorically held therein that proceedings can be said to be pending before a criminal Court only when cognizance has been taken by the Court.

Heard learned counsel for the parties.

Learned counsel for the petitioner submits that in view of the above and as per the reply and status report filed on behalf of respondent No.3, it is now doubly confirmed that report under Section 173 Cr.P.C. has not been filed as yet and the stage for framing of charge has not arisen. As the Court has not taken cognizance, no proceedings before the criminal Court as referred to in Section 6(2)(f) of the Act, are pending. As such, there is no legal impediment in re-issuing the passport to the petitioner.

It is well settled that issue/re-issue of passport could not be refused, cancelled or impounded only on the ground of registration of FIR. Reference is made to judgment of the coordinate Bench in ***Sahib Jaskaran Singh vs. Union of India and others, 2016(2) RCR (Criminal) 798.*** Learned counsel for the petitioner would further submit that the petitioner had applied for re-issue of passport well in time and has also herself disclosed the fact of registration of the FIR in her application.

Thus, it is urged that in view of the above settled position in law, the response filed by the police and the submissions made on behalf of respondent Nos.1 and 2, the second respondent be directed to expedite re-issuing the passport so that petitioner could join the degree course at the University, which is to start on 03.10.2022. It is also submitted that at this stage the petitioner is only an accused and would suffer irreparable loss, damage and much harm to her academic career in case petitioner is not promptly issued the passport, there being no legal impediment for the same.

Learned counsel for respondent Nos.1 and 2 submits that in view of the instructions conveyed to her, the passport application of the

petitioner would be considered and processed, as per the prescribed procedure.

Learned State counsel refers to para 7 of the reply dated 19.09.2022 filed on behalf of respondent No.3, to submit that the petitioner wants to leave India for an uncertain period and her presence would be required before the concerned Court after presentation of the challan and to face trial, if charge is framed against her. Thus, her absence is likely to hamper the trial.

The aforesaid reply or status report has not been controverted by filing replication or counter affidavit. The factum that the petitioner along with other members of her family was arrested on 13.09.2021 remains uncontroverted as per the pleadings. However, no order prohibiting departure from India of the petitioner has been placed on record or even mentioned by the respondents. It is not in dispute that there is no legal impediment or contravention of any statutory provision, disentitling the petitioner from applying for or holding a passport.

In view of the above, this petition is disposed of with the direction to the second respondent to process the application of the petitioner for re-issue of the passport, in accordance with law, as submitted on instructions and noticed above. Liberty is also granted to the petitioner to represent to the Regional Passport Officer, Chandigarh, explaining the urgency with supporting material for expediting the process for re-issue of passport to her.

Needless to observe that in case such a request is made, the same would be considered with compassion and keeping in view that the petitioner had timely sought re-issue of the passport and processing of her application was delayed for no fault directly attributable to her. If any additional fees for expedited process is payable, like in the case of Tatkal service, the same would be payable by the petitioner-applicant.

It is also made clear that this order does not in any manner express any opinion with regard to the proceedings in the FIR case and the petitioner would remain bound as such by the conditions of her bail bond/ bail order and the relevant provisions under which concession of bail is granted to her.

This petition is disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

September 27, 2022
Ajay

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