

CWP-20756-2021

Date of Decision: 01.06.2022

Harmanpreet Singh

....Petitioner

VS

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Ms. G.K. Mann, Sr. Advocate with
Mr. Gursewak Singh, Advocate
for the petitioner

Ms. Shweta Nahata, Advocate
for respondents No. 1 and 3

Mr. Arun K. Kaundal, DAG Punjab
for respondent No. 2

SUDHIR MITTAL, J. (Oral)

A perusal of the record shows that passport applied for on 12.04.2021 has not been issued on account of an adverse police verification report wherein it has been mentioned that an FIR is pending against the petitioner.

Learned senior counsel for the petitioner submits that pendency of an FIR is not a ground for refusing issuance of a passport.

Learned counsel for the respondents submits that pendency of an FIR has been concealed while applying for passport. A show cause notice was also issued but no reply was submitted. In case the petitioner files a reply to the show cause notice his case will be reconsidered.

The submission that pendency of an FIR was concealed is made on the basis of the contents of the affidavit dated 15.04.2021 sworn by the petitioner. Relevant part thereof is reproduced below :-

“I have read and understood the contents of the above and by submitting this form certify that all the information submitted by me in the form is bonafide.

I hereby confirm that all the documents including original and photocopies thereof have been handed over back to me post digitization of required documents.

Further, I solemnly affirm that :

*** I have not been charged with criminal proceedings nor is there any arrest warrant or summon pending before any Court of Law in India against me.*

*** During the 5 years immediately preceding the date of this application, I have not been convicted by any Court of law in India for any criminal offence and sentenced to imprisonment for two years or more.*

*** I have neither refused or denied passport nor my passport has been impounded or revoked.*

*** I have never applied for, nor was I ever granted political asylum by any foreign country.*

*** I have never returned to India on Emergency Certificate nor was I ever deported or repatriated to India.*

A perusal of the aforementioned part of the affidavit shows that there is no concealment of material particulars. The language of the affidavit is in accordance with a printed proforma. The relevant line of the same is “I have not been charged with criminal proceedings nor is there any arrest warrant or summon pending before any Court of law in India against me”. The affidavit does not contain a statement that “No criminal case or FIR is pending against me”. As a matter of fact the petitioner has not been charged in any criminal proceedings nor any arrest warrants or summons have been issued against him because trial in the pending FIR has not yet started. Thus, the argument that material particulars were concealed is misconceived. In view of the prescribed proforma of the affidavit, the petitioner could not have been expected to add or subtract therefrom. It is settled law that pendency of an FIR is no ground to refuse issuance of a passport.

Accordingly, the writ petition is allowed. The respondents are directed to issue a passport to the petitioner within four weeks from the date of receipt of certified copy of this order.

01.06.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No