

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

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CWP No.26237 of 2022

Date of decision: 17.11.2022

Ravinder Singh Khatrao

....Petitioner

V/s

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Aman Mittal, Advocate, for the petitioner.

Mr. Ankur Sharma, Senior Panel Counsel,
for respondent Nos.1 to .5.

VIKAS SURI, J. (Oral)

This petition has been filed under Article 226/227 of the
Constitution of India with the following substantive prayers:

“Civil writ petition under Articles 226/227 of the
Constitution of India with a prayer that this Hon’ble Court may
be pleased to issue an appropriate writ, order or direction,
including a writ in the nature of certiorari, quashing order dated
01.09.2022 (P-3) passed by respondent No.4 whereby in a
completely arbitrary and wrong manner, the application of the
petitioner has been rejected whereby the request of the
petitioner for renewal of passport has been rejected on
completely erroneous grounds that there is criminal case
pending against the petitioner. Or

Alternatively, it is further prayed that this Hon’ble Court
may be pleased to issue any other appropriate writ, order or
direction including a writ in the nature of mandamus, directing
the respondents to issue to emergency travel certificate so that
petitioner can come to India and face the trial. Or

Alternatively, it is further prayed that this Hon’ble Court

may be pleased to issue any other appropriate writ, order or direction including a writ in the nature of mandamus, directing the respondents to decide the representation dated 21.10.2022 Annexure P-4 to renew the passport of the petitioner or issue a temporarily passport to the petitioner so that petitioner can come to India and face the pending criminal trial.”

It is pleaded that the petitioner and his wife had got sponsorship for attending the marriage anniversary celebrations of his brother-in-law in Canada. They left for Canada on 09.06.2018 for the said purpose. Petitioner and his wife could not return to India due to unavoidable circumstances and in November 2019, travel restrictions were imposed by the Canadian Government. Thereafter, in March 2020, there was a worldwide lock-down on account of Covid-19 pandemic.

The petitioner is stated to have unfortunately lost his passport in Canada and on 30.05.2022 he lodged a missing complaint regarding loss of passport to the Canadian Government, which was acknowledged vide letter dated 31.05.2022 (Annexure P-2). Thereafter, petitioner applied for re-issue of his passport before the fourth respondent, i.e. Consulate General of India, Vancouver, British Colombia. Vide letter dated 01.09.2022 (Annexure P-3), petitioner was informed that while processing his passport renewal application in lieu of lost passport, it was noticed that FIR No.272 dated 24.09.2017 registered at Police Station Samrala, District Ludhiana (Punjab) was pending against him and accordingly, he was called upon to submit the case papers if the case has been closed.

Petitioner has in all fairness appended with this petition a copy of the order dated 17.09.2022 (Annexure P-5), whereby the bail order/bail bonds and surety bonds were ordered to be cancelled and forfeited to the State and non-bailable warrants were issued against the petitioner for

03.12.2022.

In response to the letter dated 01.09.2022 noticed above, petitioner approached the Indian Ambassador, Ottawa, Canada vide representation dated 21.10.2022 (Annexure P-4), disclosing the entire factual matrix and requesting for issuance of a new passport or in the alternate, an Emergency Certificate to enable him to travel back to India to face trial in the pending FIR case.

A perusal of the pleadings and the documents on record shows that the petitioner has not pleaded or placed any document on record before this Court, to show that he had applied to the Consulate General of India or the High Commission of India at Canada for issuance of Emergency Certificate, i.e. the travel document specified in Part II of Schedule II to the Passport Rules, 1980.

The relevant provisions with regard to 'Emergency Certificate', provided under Rule 4 and Part II of Schedule II to the Passports Rules, 1980 read as under:-

“4. Classes of persons to whom the different classes of passports and travel documents may be issued.—The classes of persons to whom the classes of passports or travel documents referred to respectively in sub-section (1) and sub-section (2) of section 4 may be issued, shall be as specified respectively in Part I or Part II, as the case may be, of Schedule II.

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SCHEDULE II
(See rule 4)

PART I
PASSPORTS

xxx xxx xxx

PART II
TRAVEL DOCUMENTS

Classes of Travel Documents	Classes of persons to whom issuable
(1)	(2)
1. Emergency Certificate	(i) Citizens of India abroad who have been refused passport, or whose passports have been impounded or revoked, or who have to be repatriated to India. (ii) Persons who have produced <i>prima facie</i> evidence of Indian citizenship but the evidence is considered insufficient to justify the issue of a passport without further verification. (iii) Citizens of India abroad whose passports have been lost, stolen or damaged, and to whom new passports cannot be issued without verification, of their passport particulars by reference to the offices of issue. (iv) Persons of Indian origin abroad when allowed to come to India for settling down here.”

Learned counsel for the petitioner has sought to urge that even though the petitioner has not applied for issue of Emergency Certificate by filing an appropriate application in that regard, on the prescribed form as per rules, but has made a request in his representation that ought to have been considered by the concerned authorities.

Having heard learned counsel for the petitioner, I am unable to agree with the above noticed contention that in the absence of having applied for a specific travel document, i.e. Emergency Certificate in the present case, the request in the alternate made in the representation, should have been considered.

Faced with the aforesaid, learned counsel for the petitioner would refer to the final order dated 31.10.2022 passed in CWP-24941-2022,

titled *Hardeep Singh vs. Union of India and another*, to seek withdrawal of the present petition to enable the petitioner to apply to the concerned authorities for issuance of an appropriate travel document, which in the peculiar facts and circumstances, has not been applied for as yet.

At this stage, Mr. Ankur Sharma, Senior Panel Counsel, has put in appearance on behalf of respondent Nos.1 to 5, as a copy of the petition was supplied to him in advance. He raises no objection to the petitioner seeking to withdraw the present petition with liberty to apply to the competent authority for issuance of Emergency Certificate, as per law.

Dismissed as withdrawn with liberty as aforesaid.

(VIKAS SURI)
JUDGE

November 17, 2022

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Whether speaking/reasoned: Yes

Whether reportable: No