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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 20th December, 2022

+ **W.P.(C) 11782/2022**

ARUN KUMAR GUPTA @ ARUN
RAMAVTAR GUPTA

..... Petitioner

Through: Mr. Ajay Vikram Singh, Advocate.
(M-9868632122)

versus

UNION OF INDIA

..... Respondent

Through: Ms. Nidhi Raman, CGSC with Mr.
Abhishek Khanna, GP. Ms. Charu
Modi & Mr. Zubin Singh for R-1 (M-
9891088658) Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CM APPL. 53940/2022 (for hearing)

2. Early hearing of the writ petition is sought in the present petition. The matter has been taken up today. Early hearing is allowed. Application is disposed of.

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3. The present petition has been filed by Shri Arun Kumar Gupta @ Arun Ramavtar Gupta seeking renewal of his passport for a period of 10 years which according to the Petitioner is in terms of the Passport Rules, 1980.

4. The background of the petition is that an FIR was registered with Sola High Court Police Station, District Ahmedabad, Gujarat wherein the Sessions Court had granted bail to the Petitioner vide order dated 23rd

August, 2019. The conditions which were imposed at the time of granting of bail are as under:

“This regular bail application No.2661/2019 is hereby allowed.

The applicant/accused-Arun Gupta resident of the address shown in the cause title is hereby ordered to be released on bail on furnishing personal bond of Rs.15,000/- (Rupees Fifteen Thousand) and one surety of like amount for the alleged offence U/s 406, 420, 465, 467, 468, 471, 294(b), 506(1), 120(B) & 114 of IPC registered with the Sola High Court Police Station vide C.R.I-291/2015 on the following conditions:

- 1. That the Applicant/accused shall give his local as well as permanent address to the Court and the concern Police along with the proof.*
- 2. That the Applicant/accused shall not leave the territory of India without the permission of this Court.*
- 3. That the Applicant/accused shall deposit his Passport, if any, before this Court, immediately after his release from the jail and if he does not hold any Passport then he shall execute affidavit for that purpose.*
- 4. That the Applicant/accused shall produce documentary evidence regarding holding of immovable property in his name or in the name of his family members.*
- 5. The applicant/accused shall not tamper with the prosecution evidence by inducing, threat or by any other means.*

Jail authority and Police Station concerned be informed accordingly.”

5. This order was challenged by the petitioner before the High Court of Gujarat at Ahmedabad wherein vide order dated 11th April, 2022, the conditions were modified to the following effect:-

“14) In view of the aforesaid,, in my considered opinion, the application deserves to be allowed. Accordingly, the conditions No.2 and 3 imposed vide order dated 28.08.2019 in Criminal Misc. Application No.2661 of 2019, are ordered to be suspended for a period of six months from today, on following terms and conditions:

(i) The applicant shall furnish detailed itinerary as well as address of residence during his travel period and also mobile number to the Investigating Agency and same shall be placed before the Trial Court by way of an affidavit.

(ii) The applicant shall surrender the passport with the trial Court within 7 days from his return from Singapore.

(iii) The applicant shall mark his presence once after he returns from Singapore with the Investigating Agency.”

6. As per the above order passed by the Gujarat High Court, conditions Nos. 2 and 3 were suspended, subject to other conditions, for a period of six months. Accordingly it is the case of the passport authorities that the passport of the Petitioner can only be renewed for a period of one year and not beyond, unless there is clarification by the concerned Trial Court.

7. Ld. Counsel for the Petitioner however submits that no charge sheet has been filed and no charges have been framed against the petitioner till date. Thus, it is the case of the Petitioner that in terms of the Passport Rules, 1980, the Petitioner is entitled for 10 year renewal of his passport.

8. Insofar as the renewal of Passport is concerned, the legal position in respect thereof is clear as has been laid down by a Division Bench of this Court vide order dated 7th January, 2016 in ***Prashant Bhushan vs. Union of India & Anr., 2016 SCC OnLine Del 79*** and vide order dated 8th

October, 2018 in *Deepak Jain vs. Union of India & Anr., 2018 SCC OnLine Del 11767*. In the decision of *Deepak Jain (supra)*, the learned Single Judge of this court had considered the notification dated 25th August, 1993 under Section 6(2)(f) of the Passport Act, 1967 and has observed that if the order of the trial court does not mention the period for which the passport can be renewed, it shall be only renewed for a period of one year in terms of the 1993 notification. However, if the passport applicant wishes to seek a passport renewal for a period of ten years, a specific order to the said effect would have to be obtained from the Trial Court. The relevant portion of the *Deepak Jain (supra)* is set out hereinbelow:

Reasons and Conclusion

6. A Division Bench of this Court had considered the similar controversy in the case of *Prashant Bhushan v. Union of India & Anr.: 2016 (154) DRJ 385 (DB)*. In that case also, the Metropolitan Magistrate had given a NOC for renewal of the passport —as per Rules. The Division Bench examined the same and concluded that since no period was mentioned in the said order, the passport was required to be renewed for a period of one year in terms of the notification dated 25.08.1993. 7. The Court declined to accept the interpretation that even in absence of the specific period being mentioned in the order of the Trial Court indicating its no objection, the same must be construed to be a full term as provided in the Passport Rules, 1980. The Court expressly held —though it is open to the applicant to seek further extension, there is no logic in contending that in the absence of fixation of any time limit by the court it has to be presumed that the court has allowed issuance of the passport for full validity period. 8. In view of the above, the contention of the petitioner that in each case, where the Trial Court issues a No Objection Certificate stating that the

passport be issued as per Rules must be construed that the passport be issued for the full term, cannot be accepted. 9. At this stage, it is relevant to refer to the notification dated 25.08.1993, which is set out below:

**“GOVERNMENT OF INDIA
MINISTRY OF EXTERNAL AFFAIRS
NOTIFICATION**

New Delhi, the 25th August, 1993

G.S.R. 570(E). – In exercise of the powers conferred by clause (a) of section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs no. G.S.R.298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

(a) the passport to be issued to every such citizen shall be issued—

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year,

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad

for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of a(ii) and a(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of a(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.

*[No.VI/401/37/79] L.K. PONAPPA,
Jt. Secy. (CPV) ”*

10. It is apparent from the language of the notification dated 25.08.1993– which is not under challenge in these proceedings – that if no period for issue of the passport or approval is specified, the passport would be issued for a period of one year. Admittedly, the Passport Rules, 1980 provide that the period of validity of a passport shall be ten years. The reference to Rules by the Trial Court should in normal circumstances also mean the same as held by the Bombay High Court in Narendra K. Ambwani v. Union of India & Ors.: Civil Writ Petition No.361/2014, decided on 13.03.2014. However, the decision in Prashant Bhushan v. Union of India & Anr.: 2016 (154) DRJ 385 (DB) is clear in this regard. Thus, it would be necessary for the applicant to seek orders for expressly indicating the period for which a passport can be issued. In view of

the above, the present petition is disposed of by granting liberty to the petitioner to approach the concerned Court for necessary clarification. In the event, the Trial Court indicates that it has no objection for issuance of the passport for the full term as provided under the Passport Rules, 1980, the petitioner would be at liberty to make a fresh application for renewal of the passport and it would be processed, accordingly.”

9. This decision in ***Deepak Jain (supra)*** has also been reiterated by this Court in order dated 19th December, 2022 of **W.P. (C) 15774/2022** titled ***Kunal Minda v. Union of India and Anr.***

10. In view of the above legal position, the prayer of the petitioner for renewal of passport for a period of ten years can only be granted if the concerned Trial Court in Gujarat clarifies or gives permission to the said effect.

11. Accordingly, the petitioner is permitted to approach the concerned Trial Court in Ahmedabad or the Gujarat High Court, as he may be advised, which imposed/modified the conditions on 23rd August, 2019/11th April 2022 and seek a clarification for renewal of his passport for a period of ten years. If a clarification is issued by the concerned court, the same may be submitted to the passport authority, after which the application for renewal of passport shall be processed in accordance with law.

12. All rights and contentions of the parties are left open. The petition stands disposed of. The next date of hearing stands cancelled.

PRATHIBA M. SINGH, J

DECEMBER 20, 2022/NS/AM