

**In the High Court of Punjab and Haryana at Chandigarh
102**

CWP-10186 of 2023

Date of Decision: 01.08.2023

Hardeep Singh

---Petitioner

versus

Union of India and another

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Abnash Singh, Advocate
for the petitioner

Ms. Neha Sharma, Advocate
for Union of India

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking direction to respondent No. 2 to renew/re-issue his passport.

2. The petitioner was issued passport on 25.10.2012 which was valid upto 24.10.2022. FIR No. 124 dated 25.03.2021 under Sections 283, 506, 427 and 294 of IPC came to be registered against the petitioner at Police Station, Zirakpur, District, SAS Nagar. The police after completing investigation filed its report under Section 173 Cr.P.C. The trial is pending against the petitioner before trial court at Dera Bassi. The petitioner applied for renewal/re-issuance of passport on 06.01.2023, however, passport authority has declined to renew/re-issue

passport on the ground that criminal proceedings as contemplated under Section 6 (2) (f) of the Passport Act, 1967 (in short “the Act”) are pending against the petitioner. The petitioner moved an application before trial court seeking permission to get renewed/re-issued his passport, however, trial court vide order dated 25.11.2022 dismissed application on the ground that it is discretion of the passport authority to renew passport as per their rules and regulations. The applicant is at liberty to file application before the concerned authority.

3. Learned counsel for the petitioner inter alia contends that as per Notification No. 570 dated 25.08.1993 issued by Central Government and as per Section 6 (2) (f) of the Act, in case of pendency of criminal proceedings, an applicant may approach the trial court and seek permission to get passport and visit abroad, thus, trial court has wrongly rejected application of the petitioner. The passport authority has not issued passport because criminal proceedings are pending and trial court has rejected application forming an opinion that it is upto the passport authority to decide application of the petitioner.

4. Ms. Neha Sharma, counsel for Union of India, who on advance notice is present in Court, submits that concededly, criminal proceedings are pending against the petitioner, thus, case of petitioner is squarely covered by Section 6 (2) (f) of the Act. The Government by Notification No. 570 dated 25.08.1993 has permitted applicants to get passport, subject to permission granted by trial court, thus, petitioner is bound to get permission from trial court.

5. Notification No. 570 dated 25.08.1993 is reproduced as

below:-

“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 and all connected cases

(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.”

6. From the perusal of the aforesaid Notification, it is quite evident that trial court is supposed to decide application seeking permission to get passport or permission to visit abroad.

7. The petition stands disposed of with liberty to petitioner to file fresh application before trial court which considering the aforesaid Notification shall decide application of the petitioner.

(JAGMOHAN BANSAL)
JUDGE

01.08.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No