

In the High Court of Punjab and Haryana at Chandigarh

105

2023:PHHC:089845

CWP No. 10232 of 2023 (O&M)

Date of Decision: 18.07.2023

Sandeep Malik

---Petitioner

versus

Union of India and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Kamal Mor, Advocate
for the petitioner

Mr. Monica Chawla, Advocate
for Union of India

Mr. Rahul Dev Singh, Addl. A.G.Haryana

JAGMOHAN BANSAL, J. (ORAL)

CM No. 11041 and 11043-CWP-2023

Allowed as prayed for.

Short reply on behalf of respondents-Union of India
alongwith Annexures R-1 to R-3 on is taken on record. Registry is
directed to tag the same at an appropriate place.

CWP No. 10232 of 2023

1. The petitioner through instant petition under Articles
226/227 of Constitution of India is seeking direction to respondents to
renew/re-issue passport of the petitioner.

2. Learned counsel for the parties are *ad idem* that trial

arising out of FIR No. 683 dated 21.11.2019, under Sections 147, 149, 427, 447, 509 of IPC registered at Police Station, City Sonapat is pending against the petitioner. The petitioner was not named in the FIR. No other case is pending against the petitioner. As per Notification dated 25.08.1993 issued by Central Government in exercise of power conferred by Section 22 of the Passport Act, 1967 (in short “the Act”), passport authority may issue passport to any person against whom criminal proceedings are pending, however, applicant is required to get prior approval of the Court concerned.

3. In view of notification No. 570 dated 25.08.1993, an applicant seeking passport is supposed to get permission of the Court.

The relevant extracts of the Notification read as:-

“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.”

4. In view of aforesaid notification which has been issued in exercise of power conferred by Section 22 of the Act, the petition is disposed of with liberty to the petitioner to move an appropriate

application before the concerned court. If such an application is filed, the concerned Court shall decide the same expeditiously.

(JAGMOHAN BANSAL)
JUDGE

18.07.2023

paramjit

Whether speaking/reasoned : Yes

Whether reportable : Yes/No