

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

CWP-19305-2023

Date of Decision:01.09.2023

SUSHIL RAJU THAPAR

..... Petitioner

Versus

UNION OF INDIA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Ms. Neha Sharma, Senior Panel Counsel
for the respondents- UOI.

Mr. Deepanjay Sharma, DAG, Punjab.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondent to renew his passport.

2. The petitioner was issued passport on 10.03.2014 which is due to expire on 09.03.2024. The petitioner applied for renewal of passport, however, respondent is not processing application because an FIR is pending against the petitioner.

3. An FIR No.0057 dated 13.04.2022, under Sections 294 and 506 of IPC was registered against the petitioner. The police after completing investigation has presented its report under Section 173 Cr.P.C. The Court has already taken cognizance and trial is pending against the petitioner. The Central Government in exercise of power conferred by Section 22 of Passport Act, 1967 has issued notification

No.570 dated 25.08.1993 whereby it has been provided that passport may be issued despite pendency of criminal proceedings provided approval is granted by Trial Court. Indubitably trial is pending against the petitioner and in terms of aforesaid notification the petitioner can approach Trial Court.

4. The relevant extracts of 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

(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.”

5. Faced with this, learned counsel for the petitioner seeks permission to withdraw the present petition with liberty to approach Trial Court in terms of aforesaid notification.

6. If the petitioner moves an application before the Trial Court, it would decide his application expeditiously.

(JAGMOHAN BANSAL)
JUDGE

01.09.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No