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03.04.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 7064 of 2024

Arindam Nandy
Vs.
Union of India & Ors.

Mr. Gourab Ghosh,
Ms. Renesa Dey
... for the petitioner

Mr. Souvik Nandy,
Ms. Rini Bhattacharyya
...for the Union of India

1. The petitioner contends that the petitioner's application for passport was refused on the ground of pendency of a criminal case against the petitioner.
2. Learned counsel for the petitioner contends that the petitioner was framed in the case and is now enlarged on bail. That apart, mere pendency of a criminal case cannot be a justified ground for refusal to issue a passport.
3. Learned counsel appearing for the respondent-authorities places reliance on a Notification dated August 25, 1993 issued by the Ministry of External Affairs, which makes a relaxation in the rigours of Section 6(2)(f) of the Passport Act, 1967, by virtue of which Section, in view of pendency of criminal

cases against them, passports may not be issued to citizens of India.

4. A perusal of the said Notification clearly shows that, to avail of such relaxation, the applicant has to obtain permission from the concerned jurisdictional criminal court for leaving the country and, accordingly, the passport shall be issued to such citizen, subject to such permission being obtained.

5. Even otherwise, Section 6(2)(f) of the Act clearly stipulates that the passport authority shall refuse to issue a passport if proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India.

6. Thus, the only option open before the petitioner is to obtain a permission as contemplated in the aforementioned Notification from the jurisdiction criminal court for passport to be issued to the petitioner.

7. Accordingly, W.P.A. No. 7064 of 2024 is disposed of by granting liberty to the petitioner to approach the jurisdictional criminal court where the criminal case in respect of the petitioner is at present pending, for permission to leave the country under the Notification dated August 25,

1993, bearing No. GSR 570(E), issued by the Ministry of External Affairs, Government of India.

8. Upon such application being made, it is expected, the same shall be decided within a week by the said jurisdictional court.

9. In the event such permission is granted to the petitioner, the petitioner shall be at liberty to approach the Passport Authorities, who, upon otherwise scrutinizing the application, if in order, shall grant the passport at the earliest, preferably within a fortnight thereafter.

10. There will be no order as to costs.

11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)