

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

118. CRM-M No.7741 of 2024 (O&M)
Date of Decision:21.02.2024

Vikram Batta ... Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harnoor Singh, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

CRM No.6776 of 2024

The present application has been filed under Rule 3-A (i) of Chapter 6 Part B Volume V of the High Court Rules and Orders for grant of leave to file the present case without number of roll of advocate.

For the reasons stated in the application, the same is allowed and leave is granted to the counsel to file the present case without number of roll of advocate.

CRM-M No.7741 of 2024

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 03.01.2024 passed in CRM/597 of 2023 by the learned Additional District and Sessions Judge, Rupnagar whereby application filed by the petitioner seeking renewal of his passport has been dismissed.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in FIR No.124 dated 23.07.2015 under Sections 306 read with Section 34 IPC registered at Police Station Morinda. In the said FIR, the investigating agency had filed the cancellation report and the

protest petition filed by the complainant against the said cancellation report also stood dismissed as withdrawn. However, the learned Court below has erroneously took cognizance of the present matter under Section 190 Cr.P.C. and proceeded to summon the petitioner as an accused to face trial. It is further contended that the petitioner is holder of Passport No.F7252861, which has expired on 18.06.2016. The petitioner had filed an application seeking permission of the learned trial Court for renewal of the same, which has been dismissed vide impugned order dated 03.01.2024 in an erroneous manner on the ground that the same was not maintainable. It is further contended that as per notification dated 25.08.1993 issued by the Ministry of External Affairs, it is mandatory to get prior permission of the Court before which criminal proceedings are pending, while applying for renewal of passport before the passport authority.

3. Notice of motion.

4. On the asking of Court, Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court accepts notice for the respondent-State and submits that no other case is pending against the petitioner.

5. I have heard learned counsel for the parties and perused the paper book with their able assistance. With the consent of parties, the matter is taken up for final disposal.

6. A perusal of the notification dated 25.08.1993 (Annexure P-2) issued by the Ministry of External Affairs indicates that prior permission of the Court before which criminal proceedings against a person are pending, is mandatory for renewal/issuance of the passport qua said person. Section 6 of the Passport Act, 1967 specifies the circumstances where an applicant may be denied passport and the same reads as follows:

“6. Refusal of passports, travel documents. etc.

(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and no other ground, namely: -

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India:

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country,

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

(a) that the applicant is not a citizen of India.,

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India.,

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;*
- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;*
- (i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”*

It is also an admitted fact that no other criminal proceedings are pending against the petitioner. In today’s globalised world, mechanical denial of passport or permission to travel abroad merely on an unfounded apprehension of the applicant fleeing from justice would amount to a direct violation of fundamental rights as guaranteed under Articles 14, 19(1)(a), (g) and 21 of the Constitution of India.

- 7. In view of the aforesaid facts and circumstance, order dated 03.01.2024 is set aside and the matter is remanded back to the learned trial Court to consider the matter of renewal of the passport of the petitioner afresh in view of notification dated 25.08.1993 issued by the Ministry of External Affairs and Section 6(2)(f) of the Passport Act, 1967 within a period of four weeks from the date of receipt of certified copy of this order.
- 8. The instant petition stands allowed in above terms.

(HARPREET SINGH BRAR)
JUDGE

February 21, 2024
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No