

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.530 of 2025

Arising Out of PS. Case No.-323 Year-2024 Thana- JAYNAGAR District- Madhubani

1. Craig Allen Moore @ Crag Allen Moore Son of Michael J Moore Resident of 24051 Sherwood Road Willits California- 95490, Passport No. A07196056
2. Munni Sah Wife of Craig Allen Moore @ Crag Allen Moore Resident of 18170 Mandarin Street Woodland California 95695, Poassport No. 669732407.

... .. Petitioners

Versus

1. The State of Bihar through its Home Secretary, Patna Bihar
2. The Union of India through the Secretary, Ministry of External Affairs, Bureau of Immigration, Office of Assistant Foreigners Regional Registration Officer, New Delhi
3. The Director General of Police, Bihar, Patna
4. The Superintendent of Police, Madhubani Bihar
5. The Officer-In-Charge, Jaynagar Police Station, Madhubani Bihar

... .. Respondents

Appearance :

For the Petitioner/s	:	Ms. Shrishti Singh, Advocate Mr. Pranav Kumar, Advocate
For the State	:	Mr. Yogendra Pd. Sinha, A.A.G.-7
For the Res. No. 2	:	Mr. Rana Vikram Singh, Dy.S.G.I.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
CAV JUDGMENT

Date :26-09-2025

The instant criminal writ petition has been filed by the petitioners seeking following relief(s):

i) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the First Information Report bearing Jaynagar P.S. Case No. 323/2024 dated 09.11.2024 registered under Sections 14(b) & 14-C of the Foreigners Act, 1946, and Section 12(3) of the Passports Act, 1967 and consequential proceedings



(Annexure-P/2, Pg.33).

ii) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the Charge Sheet No. 613 of 2024 dated 30.11.2024 filed under Sections 14(b) & 14-C of the Foreigners Act, 1946, and Section 12(3) of the Passports Act, 1967 (Annexure-P/3, Pg.56).

iii) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the cognizance taking order dated 16.12.2024 by the Learned Court of Chief Judicial Magistrate, Madhubani under Sections 14(b) & 14-C of the Foreigners Act, 1946, and Section 12(3) of the Passports Act, 1967 (Annexure-P/6, Pg.63).

iv) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the order framing charge dated 02.01.2025 under Sections 14(b) & 14-C of the Foreigners Act, 1946, and Section 12(3) of the Passports Act, 1967 by which charge has been framed by the Court of Learned Additional Chief Judicial Magistrate-I, Madhubani (Annexure-P/7, Pg. 64).

v) To issue an appropriate writ/order/direction in the nature of mandamus for commanding the respondents to deport the petitioners to the United States



of America in consonance with Section 5 of the Passport (Entry into India) Act, 1920.

vi) To any other relief or reliefs for which the petitioners are found to be entitled in the facts and circumstances of the case.”

02. Shorn of unnecessary details, the facts of the case are that the petitioners are the citizens of the United States of America and holders of passports bearing Nos. A07196056 and 669732407. The petitioners have been made accused in Jaynagar P.S. Case No. 323 of 2024 registered under Sections 14(b) and 14-C of the Foreigners Act, 1946 and Section 12(3) of the Passports Act, 1967. The informant of the FIR received an information that in a white car bearing Registration No. BR-01 PM-6836, which was proceeding from India towards Nepal, two foreign citizens were travelling. One Sonu Kumar Gupta came and stated that foreign citizens were his relatives. On enquiry, the informant came to know about the petitioners and one Ram Hriday Singh who were sitting in the car. On further enquiry, the petitioners mentioned that on 04.11.2024, they had come from Nepal to Jaynagar with their relative, Sonu Kumar Gupta, and after staying in Jaynagar for four days they were returning to Nepal on 09.11.2024. They also stated that they have been holding valid passports and Visas for Nepal and also e-tourist



Visa for entering India. However, it transpired from perusal of the passports that the passports did not contain any Indian Immigration Stamp, leading to inference that petitioners were staying in the country illegally. The passports of the petitioners were seized along with car in which they were travelling and, accordingly, a seizure list was prepared. Thereafter, Jaynagar P.S. Case No. 323 of 2024 was registered.

It also transpires that pursuant to the FIR, Charge Sheet No. 613 of 2024, dated 30.11.2024, was submitted under Sections 14(b) and 14-C of the Foreigners Act, 1946 (for short 'the Foreigners Act') and Section 12(3) of the Passports Act, 1967 (for short 'the Passports Act'). It further transpires that prior to that, the petitioners were granted bail on 18.02.2024 by the court of learned Chief Judicial Magistrate (CJM), Madhubani with certain conditions and one of the conditions was that they would not leave the country without permission of the court or during the pendency of the trial. Thereafter, the petitioners filed an application for release of their passports and vide order dated 26.11.2024, learned court of CJM, Madhubani directed to release of their passports. It further transpires that the learned CJM, Madhubani took cognizance of the charge-sheet on 16.12.2024 under Sections 14(b) and 14-C of the Foreigners



Act and Section 12(3) of the Passports Act. Subsequently, on 02.01.2025, charges were framed against the petitioners under Sections 14(b) and 14-C of the Foreigners Act and Section 12(3) of the Passports Act.

03. Ms. Shrishti Singh, learned counsel for the petitioners, submitted that the petitioners are holders of valid passports as well as valid Visa and the facts disclosed in the FIR do not constitute the offences with which the petitioners have been charged. The allegations made in the FIR, even if they are taken at their face value and accepted in its entirety, do not *prima facie* constitute any offence. Moreover, when there is specific provision under Section 3(2)(c) of the Foreigners Act and Section 5 of the Passport (Entry into India) Act, 1920 (for short 'the Act of 1920') providing an efficacious redress, i.e., of deportation, the FIR and subsequent proceedings against the petitioners suffer from illegality and are liable to be quashed. In the given facts and circumstances, the petitioners should have been deported under Section 5 of the Act of 1920. Learned counsel further submitted that when special law governs the alleged offence, the petitioners could not have been charged under the Foreigners Act and the Passports Act. It is the settled law that provisions of special law on the subject of specific



legislation must prevail over the provisions of general law, which in the present case is the Foreigners Act and the Passports Act. Learned counsel further submitted that the case of the petitioners would be covered under Section 5 of the Act of 1920 and rules framed thereunder read with Section 3(2)(c) of the Foreigners Act. If the petitioners were found in possession of valid passports and Visas and if the passports were not endorsed with immigration stamp, the course open to the authority was to deport the petitioners and this Court, after quashing the criminal proceedings against the petitioners, needs to pass orders for deportation of the petitioners.

04. Learned counsel further submitted that petitioner no. 1, Craig Allen Moore, suffers from esophageal cancer and he needs to be regularly seen by his GI Oncologist and has been under continuous treatment in UCSF Hospital, San Francisco, California. Learned counsel further submitted that a certificate has been issued by Consulate General of the United States of America at Kolkata, confirming the fact that the petitioner no. 1 is at risk of recurrence of cancer and his presence in United State is required for clinical follow ups. Thus, the petitioner no. 1 has an imminent threat to his life, if he is not allowed to see his Oncologist for follow up of his cancer. Learned counsel



further submitted that petitioner no. 2, who is the wife of the petitioner no. 1, was born in Nepal and has relatives in India. The petitioners arrived in Nepal on 29.10.2024 and they decided to travel to India during the holy festival of *Chhath Puja*. The petitioners obtained Visas which were the electronic travel authorization. The petitioners were issued their respective Visas on 24.10.2024 with validity period till 23.10.2029. Accordingly, they entered into India through Betaunha Border Out Post on 04.11.2024, where their passports and e-Visas were examined and they were allowed to enter the country. After the *Chhath Puja*, on 09.11.2024, when the petitioners had been returning through the same outpost, they were detained and objections were raised on their documentation. The only allegation against the petitioners is that their passports bore no Immigration Stamps. But, for the same, there was nothing which could have been done by the petitioners as they duly submitted their passports while entering India and it was incumbent upon the Authorities to stamp their passports. Learned counsel next submitted that the entire episode shows no violation of provisions under which the petitioners have been charged and no offence is made out against the petitioners. No incriminating evidence has come up against the petitioners for having committed any offence, which



is also evident from the seizure list in which nothing illegal or nefarious has been seized. The only grievance against the petitioners is that though they had a Visa, it was not stamped by Indian Immigration and for such infraction, special provision exists in the Act of 1920 in the form of Section 5, which empowers the Government to remove such person from the country. Moreover, the Authorities are also empowered under Section 3(2)(c) of the Foreigners Act to remove any foreigner from the country. Learned counsel further submitted that pursuant to the registration of the FIR, the matter had travelled far and reached the stage of recording of evidence of prosecution witnesses, however, as the FIR does not disclose commission of any offence, subsequent proceedings against the petitioners are without jurisdiction and also need to be quashed and this Court, under its writ jurisdiction, is empowered to quash the whole proceedings starting from registration of the FIR till the stage of criminal trial against the petitioners to secure the ends of justice.

05. Learned counsel for the petitioners further submitted that due to deteriorating medical condition of petitioner no. 1, the petitioners were compelled to file a criminal writ seeking issuance of exit permit for themselves and vide



order dated 25.03.2025 passed in Criminal Writ Jurisdiction No. 460 of 2025, a Co-ordinate Bench of this Court permitted the petitioners to travel to United States of America subject to certain conditions. The petitioners were further directed to report before on or before 29.07.2025. Further, vide order dated 16.07.2025, the deadline was extended till 15.09.2025 and thereafter, vide order dated 10.09.2025, it was again extended till 15.12.2025.

06. Learned counsel for the petitioners further submitted that the case of the petitioners is covered by a Division Bench judgment of this Court in the case of *Fadi Fadel Vs. The State of Bihar through its Home Secretary 7 Ors., 2018 (2) PLJR 400*, wherein the Hon'ble Division Bench not only quashed the FIR but also quashed the subsequent orders taking cognizance as well as framing of charge as well as whole proceeding arising out of said FIR and ordered for deportation of the petitioner after holding that the offences alleged in the FIR were not attracted. Learned counsel further submitted that in the said case, the petitioners lost his way and stayed into the Indian territory and while trying to return, he was apprehended and charge-sheet was submitted under Sections 467, 468, 471 and 13, 14B of Foreigners Act. The Hon'ble



Division Bench, finding that no offence under any of the aforesaid provisions was made out against the petitioner, quashed the entire criminal proceeding against him. But, the case of the petitioners stands on much better footing. In the present case, the petitioners are having valid Visas and only on account of the fact that their passports were not stamped by the Immigration Official, they have been made to face trial.

07. Learned counsel next referred to the decision of the learned Co-ordinate Bench of this Court in the case of ***Williams Rebecca @ William Rebecca @ Rebecca Williams Vs. State of Bihar & Ors, 2022(4) BLJ 710***, wherein a Canadian citizen entered into India without an Indian Visa and charge-sheet was submitted under Section 447 of IPC, Section 14(b) of the Foreigners Act and Section 52 of Disaster Management Act, 2005. However, the learned Co-ordinate Bench held that the investigating agency as well as the learned Judicial Magistrate have completely erred in lodging of the FIR and passing of the order taking cognizance and framing of charge against the petitioner under the aforesaid provisions and finding that none of the ingredients of those provisions were available against the petitioner, the Co-ordinate Bench went on to quash the FIR, the order taking cognizance as well as the order framing charge



against the petitioner. Lastly, the learned counsel relied on decision of another Co-ordinate Bench of this Court in the case of *Farida Malik @ Sana Akhtar Vs. State of Bihar & Ors., 2024(4) BLJ 71*. Even in that case, the petitioner was entered in India without any valid Visa and had been trying to cross India-Nepal Border to go to Nepal. Charge sheet has been submitted under Sections 14/14(b) of the Foreigners Act and Sections 419 and 420 of IPC. In the said decision, the learned Co-ordinate Bench held that there was no reason to lodge F.I.R. against the petitioner, to take cognizance on the basis of charge-sheet by the learned Magistrate, to frame charge against the petitioner and to compel her to face trial since the ingredients of the offences under which the cognizance had been taken and charges had been framed were not present. Thus, the learned counsel submitted that the case of the petitioners stands on much better footing to the aforesaid cited decisions.

08. Counter affidavits have been filed on behalf of the respondents. In the counter affidavit filed by the State, it has been merely submitted that the petitioners have been rightly charge-sheeted and they do not deserve any relief. In the counter affidavit filed on behalf of respondent-Union of India, it has been submitted that the passports of the petitioners were not



properly endorsed which pointed to the fact that they resided illegally in this country since the passports of the petitioners did not contain immigration stamp which is necessary for any foreign national entering into the territory of India in terms of extant rules. Therefore, for illegal entry into this country, the petitioners were liable to be face criminal prosecution. It has also been submitted that the petitioners in complete contravention of Section 14(b) 7 14(c) of the Foreigners Act and Section 12(3) of the Passports Act illegally resides in the State within the the territory of India. Therefore, the learned trial court after proper appreciation of records of the case, passed order of cognizance dated 16.12.2024 and rightly passed the order dated 02.01.2025 framing charges against the petitioners. It has also been submitted in the counter affidavit that quashing of an FIR after framing of charge would tantamount to appreciation of evidence at a premature stage. Reference has also been made to the decision of Hon'ble Supreme Court in the case of *State of M.P. Vs. S.B. Johari, AIR 2000 SC 665*, wherein it has been held that at the stage of framing the charge inquiry must necessarily be limited to decide if the facts emerging from such materials constitute the offence with which the accused could be charged. Thus, it has been submitted in the



counter affidavit that in the present case it is beyond reasonable doubt that materials available on record *prima facie* establish the charges against the petitioners. It has further been submitted that the exercise of writ jurisdiction by the High Court is an extraordinary power which has to be exercised with great care and circumspection before embarking to scrutinize the complaint/FIR/charge-sheet in deciding whether the case is the rarest of rare case to scuttle the prosecution since its inception. The respondent no. 2, in the counter affidavit, further submitted that the High Court can quash the FIR under exceptional circumstances and the present case does not fall within any such circumstances so as to make the FIR liable to be quashed.

09. However, Mr. Rana Vikram Singh, learned Deputy Solicitor General of India (DSG), at the outset, submitted that though objections have been taken in the counter affidavit against quashing of the proceedings against the petitioners but in all fairness, the case of the petitioners is squarely covered by a decision of Hon'ble Division Bench of this Court in the case of *Fadi Fadel* (supra). However, Mr. Singh, has pointed out the fact that a Co-ordinate Bench, while considering the prayer of the petitioners for exit permit in Cr.WJC No. 460 of 2025, has directed the learned trial court to expedite the trial and has



further directed the petitioners to join the same through Video Conferencing and if the FIR and criminal proceedings against the petitioners are quashed, then it would be contradictory to the order of the Co-ordinate Bench and this issue needs to be reconciled. Thus, the learned DSG, requested this Court to pass appropriate order as may deem fit and proper in the facts of the case.

10. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

11. The FIR has been lodged against the petitioners for commission of offence under Sections Sections 14(b) and 14-C of the Foreigners Act and Section 12(3) of the Passports Act. Further charge-sheet has been submitted under the same provisions. It further appears that the charges have also been for the offences under the aforesaid provisions.

12. Now, Section 14 of the Foreigners Act reads under:

“14. Penalty for contravention of provisions of the Act, etc. — Whoever. —

(a) remains in any area in India for a period exceeding the period for which the visa was issued to him;

(b) does any act in violation of the conditions of the valid visa issued to him for



his entry and stay in India or any part thereunder;

(c) contravenes the provisions of this Act or of any order made thereunder or any direction given in pursuance of this Act or such order for which no specific punishment is provided under this Act,

shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.”

The petitioners have been made accused under Section 14(b) of the Foreigners Act, but the fact of the case does not show any violation of the conditions of the valid visa issued to the petitioners for his entry and stay in India or any part thereunder and therefore, no offence under Section 14(b) of the Foreigners Act is made out against the petitioners.

13. Section 14C of the Foreigners Act provides for penalty for abetment and reads as under:

“14C. Penalty for abetment.—Whoever abets any offence punishable under section 14 or section 14A or section 14B shall, if the act



abetted is committed in consequence of the abetment, be punished with the punishment provided for the offence.”

The aforesaid provision of Section 14C is not applicable in the case of the petitioners since the petitioners could not be said to have abetted any offence punishable under Sections 14, 14-A or 14-B of the Foreigners Act.

14. Section 12(3) of the Passports Act provides as under:

12. Offences and penalties —

.....
(3) Whoever contravenes any condition of a passport or travel document or any provision of this Act or any rule made thereunder for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

There is no material on record to show that which condition of the Passports or the travel documents has been contravened by the petitioners. Though, it can be said that not getting an endorsement on the passport might be covered under violation of passport or Visa document, the same seems to be



mere infraction for the reasons that the petitioners are holders of valid passports of a foreign country. They have duly got electronic Visa when they intended to visit this country. If, at the time of their entry, their passports were not endorsed with immigration stamp, this irregularity would not attract either the provisions of Section 14(b) and 14-C of the Foreigners Act or Section 12(3) of the Passports Act. There is nothing on record to suggest that petitioners have violated or contravened any other provision of the aforesaid Acts.

15. Now, the Act of 1920 prohibits entry into India without valid Visa but in the facts of the present case, petitioners were holding valid Visa, therefore, petitioners could not have been arrested under Section 4 of the Act of 1920, which gives power of arrest to certain officers of the State/Union of India. Under Section 5 of the Act of 1920, the Central Government has power to direct the removal of any person from India who in contravention of any rule made under Section 3 prohibiting entry into India without passport, has entered therein, and thereupon any office of the Government shall have all reasonable powers necessary to enforce such direction.

16. Rule 3 of Passport (Entry into India) Rules, 1950 (for short 'the Rules, 1950') provides that save as provided in



rule 4, no person proceeding from any place outside India shall enter, or attempt to enter, India by water, land or air- unless he is in possession of a valid passport conforming to the conditions prescribed in rule 5. Rule -5 of the Rules, 1950, which prescribes for the conditions of a valid passport are as under:

“5. The conditions of a Valid passport are-

(iv) that when issued by or on behalf of the Government of a foreign country (other than Bangladesh, Nepal and Pakistan) it shall have been [endorsed by a proper Indian diplomatic consular or passport authority or by such authority as may be authorised in this behalf by the Central Government], by way of visa for India in one or other of the following kinds, namely:—

(a) a single journey visa, valid for such period not exceeding [five years] as may be specified therein and for only journey to India;

(b) a transit visa, valid for such period not exceeding one year or the period of validity of the visa for the country of ultimate destination, as may be specified therein, and for one or more direct journeys through India undertaken for the sole purpose of reaching any place or country outside India, permitting on each such journey sojourn of not more than fifteen days in India unless specially extended by competent authority; and

(c) an ordinary visa, valid for such period not exceeding ones [five years] as may be specified therein, and for any number of journeys to India;

(d) a multiple entry, life long visa for journey to India to persons registered as Overseas Citizen of India under the provisions



of the Citizenship Act, 1955;]
.....”

It is nobody's case that the petitioners were not holding valid passports rather they have entered into Indian territory during *Chhath Festival* and their passports were not endorsed with immigration stamp. The petitioners were also having valid Visas for their stay in Nepal.

17. Under the circumstances, it was incumbent upon the authorities to have taken recourse of deportation of the petitioners instead of lodging the FIR and sending them to prison. But, as on date, the petitioners have been facing trial in connection with Jaynagar P.S. Case No. 323/2024 and their deportation could take place only when the trial stands concluded resulting in acquittal of the petitioners or entire criminal proceedings are quashed against the petitioners. In the facts and circumstances, I am of the considered opinion that the initiation of criminal prosecution against the petitioners has been fraught with illegality. So, the continuation of criminal trial against the petitioners would tantamount to perpetuating the illegality. The prosecuting agency as well as the learned trial court committed error in proceeding with the trial. The FIR against the petitioners and all the proceedings pursuant thereto appear to be an abuse of the process of law and if allowed to



continue, would result in subverting the ends of justice. Thus, such proceedings ought not to be allowed to proceed any further.

18. However, the learned DSG has flagged the issue about order of a Co-ordinate Bench directing the learned trial court to expedite the trial and if the criminal proceedings against the petitioners are quashed, an anomalous situation may arise when there are two contradictory orders of two different Co-ordinate Benches. But, I think this argument is fallacious. In the matter before the learned Co-ordinate Bench, the petitioners moved for grant of exit permit to allow them to go back to their country for medical check-up. The issue of legality/illegality of the criminal proceeding was not a matter of issue before the learned Co-ordinate Bench. It passed the orders while looking into the matter from the perspective of allowing exit permit to the petitioners and did not consider into the merits of the case. Moreover, directing the learned trial court to expedite the trial further appears to be a routine order without recording any substantive finding on the validity of the proceedings before the learned trial court. Hence, under these circumstances, I do not think if orders are passed by this Court Court quashing the criminal proceedings against the petitioners in connection with



Jaynagar P.S. Case No. 323/2024, the same would run contrary to the orders of the learned Co-ordinate Bench.

19. A question may arise to jurisdiction of this Court in considering the relief(s) sought by the petitioners once charge-sheet has been submitted and cognizance has been taken for the offences mentioned in the charge-sheet and the learned trial court proceeded in the matter. This court is alive to the fact that once the matter proceeded before the learned trial court after submission of charge-sheet, cognizance has been taken, charges framed and evidence started, the proceeding under Article 226 of the Constitution does not remain entertainable. However, considering the peculiar facts and exceptional circumstances of the case, this Court is inclined to exercise its power under Article 226 of the Constitution in order to secure the ends of justice.

20. In the light of discussion made here-in-before, the FIR bearing Jaynagar P.S. Case No. 323 of 2024, the order taking cognizance dated 16.12.2024 and the order dated 02.01.2025 framing charges and all subsequent proceedings against the petitioners are hereby quashed.

21. The respondent nos. 1 and 2 would have been required to take immediate steps for deportation of the



petitioners to their native country, the United States of America, in case the petitioners would have stayed in India. However, the petitioners have already left the country in terms of the order dated 25.03.2025 passed in Cr.WJC No. 460 of 2025. Since the petitioners have been granted exit permit in terms of a judicial order and thereafter they left the country, there remains no requirement for their deportation after quashing of criminal proceeding arising out of Jaynagar P.S. Case No. 323 of 2024.

22. Accordingly, the present criminal writ petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	AFR
CAV DATE	16.09.2025
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