

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9729 of 2024

Sanjay Kumar Son of Sri Raj Kapoor Prasad, resident of - Bankipur Gorakh, (Near Doctor Brijmohan), Fatwah, P.S. - Fatwah, District - Patna, Bihar, Pin code - 803201 at present residing at - New Chitraguptanagar, Parwati Devi Path, Behind Nobel Hospital, Post office - Lohiyanagar, P.S.- Patrakar Nagar, District - Patna, Pin code - 800020.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of External Affairs, South Block, Secretariat, Raisina Hill, New Delhi, India.
2. The Regional Passport Officer, Regional Passport Office, Patna, 2nd and 3rd floor, D Block, Mourya Lok Complex, Patna, Bihar - 800001.
3. The State of Bihar, Through Senior Superintendent of Police, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rohit Mishra, Advocate Mr. Shashi Bhushan, Advocate
For the UOI	;	Mr. Alok Kumar, Advocate
For the State	:	Mr. Manoj Kumar Ambastha, SC-26 Mr. Santosh Kumar Mishra, AC to SC-26

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

7 23-06-2025 Heard learned counsel for the petitioner, learned CGC appearing on behalf of the Union of India and learned SC-26 for the State.

2. Learned counsel for the petitioner submits that petitioner is employed as an office executive in SAR Healthline Private Limited and as per the requirement of the job, the petitioner has to travel both inside and outside India. The petitioner in connection with his job had to go abroad, as such, applied for passport in the Regional Office, Patna on 11.07.2022 (Annexure-1) vide application reference no. 22-0010250916 (PA1066633527222). It is further submitted that petitioner



received letter dated 03.08.2022 (Annexure-2) issued by the Regional Passport Office, Patna asking him to submit his acquittal order of the Court in connection with Case No. 379 of 2019. On receipt of the letter dated 03.08.2022, the petitioner appeared before the respondent no. 2 and explained that till date charge-sheet has not been submitted in the case, hence, acquittal in the case does not arise. It is next submitted that thereafter petitioner was waiting for his passport to be issued but was surprised to receive letter dated 20.07.2023 (Annexure-3) from the office of the respondent no. 2 asking him to appear in person in connection with Patrakar Nagar P.S. Case No. 379 of 2019 with Court judgment.

3. The petitioner appeared and he was informed that passport cannot be issued unless he submits judgment of acquittal. Further, since a year had lapsed from the date of application, hence, the petitioner was asked to apply afresh. Accordingly, the petitioner on 04.08.2023 (Annexure-4) again applied for issuance of passport afresh but then till date the petitioner has not been issued passport nor has been informed of the reason as to why passport is not being issued despite best endeavours of the petitioner to know the reason nor the authority competent met the petitioner despite seeking



appointment as would manifest from Annexure-5 series to the writ application, i.e., appointment receipt dated 11.03.2024 and 14.03.2024.

4. Learned counsel for the petitioner submits that Patrakar Nagar P.S. Case No. 379 of 2019 was instituted by his sister-in-law (Bhabhi) under Sections 341, 323, 324, 307 and 498(A) of the Indian Penal Code as well as Sections 3 and 4 of the Dowry Prohibition Act in which investigation till date is pending, as such, charge-sheet has not been submitted. It is further submitted that petitioner was informed by his employer that he has been selected for 25th Anniversary Celebration abroad, hence, was asked to keep his passport ready vide email dated 27.06.2022 (Annexure-7) but since the passport was not issued, hence, petitioner lost the said opportunity.

5. Learned counsel appearing on behalf of the petitioner submits that this Court in C.W.J.C. No. 16278 of 2024 (**Gautam Rana Vs. The Union of India and Anr.**) had decided a similar issue by an order dated 10.04.2025. It is further submitted that the authorities were directed to renew the passport of the petitioner. It is next submitted that this Court in C.W.J.C. No. 16278 of 2024, at para 9, had recorded as under:-

“It is next submitted that investigation in Pipra



P.S. Case No. 40 of 2023 is still pending. It is further submitted that the police after investigation may submit charge-sheet connecting the petitioner with the offence finding the allegations to be true, or after investigation the police may come to a considered conclusion that petitioner is innocent and may file final form exonerating the petitioner from the allegations, but in both the situation, the police report will attain finality only when the learned trial Court applies its judicial mind on the point of cognizance. It is submitted that even if the police submits a charge-sheet finding the case to be true, the learned trial Court may accept the charge-sheet and take cognizance, or the learned trial Court after perusing the case diary may direct for further investigation or may refuse to take cognizance, if the material collected during the course of investigation is not sufficient to establish a criminal charge against an accused. Similarly, if the police after investigation,



submits final form exonerating the petitioner of the allegation, the learned trial Court may differ with the police report and take cognizance or may accept the report or may direct for further investigation. It is thus submitted that a criminal case instituted culminates only when cognizance is taken and till the time cognizance is not taken, the criminal case cannot be said to be pending before the Court of competent criminal jurisdiction.”

6. At this stage, the learned State Counsel submits that the State was also impleaded as a party respondent in the instant case by an order dated 10.04.2025 and thereafter the case was taken up on 28.04.2025 and the Senior Superintendent of Police, Patna was directed to file a counter affidavit.

7. The Senior Superintendent of Police, Patna in compliance of the order dated 28.04.2025 filed a counter affidavit and thereafter a supplementary counter affidavit. It is submitted that in the supplementary counter affidavit, at para 3, it has been specifically pleaded that charge-sheet no. 117/2020 dated 25.03.2020 was prepared but then the investigating officer of the case for reasons best known did not submit the same



before the learned trial court and it was only when the instant writ application was taken up that the said irregularity came to the notice of the Senior Superintendent of Police, Patna when charge-sheet was submitted in the Court of learned Judicial Magistrate, 1st Class, Patna Sadar on 26.04.2025 (Annexure-C to the supplementary counter affidavit).

8. Learned counsel appearing on behalf of the Union of India submits that since charge-sheet has been submitted, as such, now the case is pending before a court of competent criminal jurisdiction, hence, no positive direction can be given to the authority for issuing passport on which learned counsel appearing on behalf of the petitioner submits that a supplementary affidavit on behalf of the petitioner has been filed wherein at para 3, it has been specifically pleaded that cognizance in the case till date has not been taken by the concerned Court and the next date fixed in the case is 21.12.2025. It is, thus, submitted that since cognizance in the case till date has not been taken and the next date fixed in the case is 21.12.2025, hence, if the Court does not intervene, the passport of the petitioner shall not be issued when this Court in the case of **Gautam Rana** (supra) has already held that mere filing of charge-sheet in absence of cognizance will not lead to a



conclusion that criminal case is pending before a Court of competent criminal jurisdiction.

9. Learned counsel appearing on behalf of the petitioner asserts and submits that if passport is issued and thereafter cognizance is taken in that event the petitioner will appear before the learned trial court and abreast the learned trial court of the facts of the case and thereafter the learned trial court shall deal with the petitioner in accordance with law.

10. At this stage, the learned counsel appearing on behalf of the Union of India submits that the petitioner while filling his application for seeking passport had not disclosed that he was involved in a criminal case on which learned counsel appearing on behalf of the petitioner submits that since the case was under investigation and charge-sheet was not submitted, as such, it was not mandatory on part of the petitioner to disclose about the pendency of the aforesaid criminal case.

11. After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the petitioner that merely because charge-sheet has been submitted and cognizance till date has not been taken, as such, it cannot be said that a criminal case is pending before a Court of competent criminal



jurisdiction.

12. Having regard to the facts and circumstances of the case and also taking into consideration the case law relied by the learned counsel for the petitioner, the respondent no. 2 is directed to consider the case of the petitioner for issuance of passport in accordance with law within a period of four weeks from today.

(Satyavrat Verma, J)

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