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

**CWP-4935-2025 (O&M)
Date of decision: 29.07.2025**

Mukul Kalra

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Gourav Verma, Advocate
for the petitioner.

Ms. Ruchita Garg, Advocate for
UOI/respondents No.1 to 2. (Through Video Conferencing)

Mr. Harpreet Singh, AAG Punjab
for respondents No. 3 & 4.

HARSH BUNGER, J. [ORAL]

Prayer in the present petition filed under Articles 226 of the Constitution of India, *inter alia*, is for issuance of a writ in the nature of *mandamus* directing the respondents to renew the passport of the petitioner and grant permission to travel abroad.

2. Briefly, the petitioner is facing trial in FIR No. 21 dated 01.02.2023 (Annexure P-1) registered under Section 406, 498-A, 420, 354, 506, 120-B IPC (Section 201 IPC was added later on) at Police Station Division 8, District Ludhiana and chargesheet was issued on 30.08.2024. Owing to the pendency of the case, the petitioner filed CRM-M-57530-2024 in this Hon'ble Court, for quashing of said chargesheet submitted in FIR No. 21 dated 01.02.2023 and all the subsequent proceedings emanating therefrom; wherein, vide order dated

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20.11.2024 (Annexure P-2), further proceedings before the learned trial Court qua the petitioner were stayed.

2.1 The petitioner thereafter filed a Criminal Miscellaneous Application (CRM-47943-2024) in the Court of Ld. Judicial Magistrate Ist Class, Ludhiana, seeking permission for renewal of passport. The Ld. Judicial Magistrate Ist Class, Ludhiana vide order dated 07.01.2025 (Annexure P-3) allowed the application of the petitioner for renewal of passport. The relevant extract of which reads as under:

“1. The reply to the application for seeking permission to get issued the fresh passport to the applicant filed.

2. Arguments heard on the abovesaid application which has been moved by the applicant on the ground that the passport of the applicant had been expired and the applicant wants to get it renewed from the competent authorities. Hence, the application.

3. The notice of the application was given to the State and in reply the application has been opposed on the ground of maintainability and a prayer for dismissal of the same has been made.

4. Through the instant application the applicant has sought permission for got renewing his Passport. The application is duly supported by an affidavit. No ground is made out to deny the request of the applicant. The application in hand stands allowed and the applicant is permitted to get renewed his passport. File be attached with the main file.”

3. It appears that the petitioner submitted an application for renewal of a passport on 20.11.2024 and also furnished as copy of order dated 07.01.2025(Annexure P-3) to the passport authority.

3.1 The Regional Passport Office, Chandigarh (Respondent No. 2) upon reviewing the trial Court’s order dated 07.01.2025, sought

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clarification from the petitioner vide letter dated 24.01.2025 (Annexure P-4), wherein the respondent No. 2, advised the petitioner to obtain fresh permission from the trial court explicitly allowing him to “depart from India” in accordance with Notification No. GSR 570(E) dated 25.08.1993 within 30 days.

4. In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court, for the relief/s, as noticed here-in-above.

5. Learned counsel for the petitioner contends that the letter dated 24.01.2025 issued by the respondent authorities is wholly arbitrary and unsustainable in law. It is submitted that this Court vide order dated 20.11.2024 (Annexure P-2) passed in CRM-M-57530-2024 has already stayed proceedings qua petitioner in case FIR No. 21 dated 01.02.2023 registered at Police Station Division 8, District Police Commissionerate, Ludhiana and even the learned trial Court, vide order dated 07.01.2025, has already granted permission to the petitioner for renewal of his passport, however the respondent authorities have wrongly issued letter dated 24.01.2025 (Annexure P-4) on the ground that petitioner has not been granted permission to depart from India. It is submitted that, it is only after getting the renewed passport, the petitioner can approach the trial Court and seek permission to go abroad or depart from India, by giving the details of his passport, visa, travel itinerary etc.

6. Learned Counsel for respondents No. 1 and 2, while opposing the petition submitted that, under Section 6(2)(f) of the Passport Act, 1967 (in short “the 1967 Act”), the passport authority is empowered to refuse issuance of a passport or travel document to any person against whom

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criminal proceedings are pending before a court in India. Further, reference is made to Notification GSR-570(E), which provides an exemption from the operation of Section 6(2)(f) in cases where the individual obtains a court order permitting departure from India. The counsel argues that, in accordance with this notification, the petitioner must first obtain explicit permission from the competent court to leave the country, failing which no passport can be issued. It is contended that in the present case, the trial Court order (Annexure P-3) merely grant permission for renewal of passport, without any express permission to travel abroad or depart from India. Therefore, it is asserted that the passport of the petitioner cannot be renewed.

7. Heard.

8. The Hon'ble Apex Court in ***"Maneka Gandhi v. Union of India" reported in 1978 (1) SCC 248***, held that no person can be deprived of his right to go abroad unless there is a law enabling the State to do so and such law contains fair, reasonable and just procedure. Hon'ble the Apex Court made following observations:

"Thus, no person can be deprived of his right to, go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports, Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure



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enough or must the procedure comply with any particular requirements? Obviously, procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law...”

8.1 In ***Satish Chandra Verma v. Union of India (UOI) and others, 2019 SCC Online (SC) 2048***; the Hon'ble Apex Court observed as under:

"The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship which are the basic humanities which can be affected through refusal of freedom to go abroad and this freedom is a genuine human right."

8.2 The Hon'ble Apex Court in ***Sumit Mehta v. State of NCT of Delhi, 2013 (15) SCC 570***, observed as under:

"The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India."

8.3 The Hon'ble Supreme Court in ***"Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation", 2020 CrI. L J. (SC) 572***; had an occasion to examine the issue of pendency of criminal cases in the light of the provisions of the Passports Act, 1967. The petitioner therein was convicted in a case for the offences under Sections 420 IPC and also Section 13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988, against which, an appeal was filed and the same was dismissed,

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however the sentence was reduced to a period of one (01) year. The petitioner therein approached the Apex Court by way of filing an appeal and the same was pending. In those circumstances, Hon'ble Apex court held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment was not less than two years. It was observed that Section 6(2)(f) of 1967 Act relates to a situation where the applicant is facing trial in a criminal Court. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Hon'ble Apex Court directed the Passport Authority to issue the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal appeal in Supreme Court.

8.4 In **“Wassan Singh Versus Union of India”, 2023 (3) RCR (C) 786**, a coordinate bench of this Court has also held that mere pendency of FIR itself is no ground for refusal or non issuance of passport to the applicant. The relevant extracts thereof reads as under :-

“A perusal of section 6 of the Passports Act would show that mere pendency of an FIR itself is no ground for refusal or non-issuance of passport to the applicant. This Court had also occasioned to deal with an identical issue in the case of Daler Singh v. Union of India and others(Supra) and Sahib Jaskaran Singh v. Union of India and others(Supra). So far as allegation of suppression of facts pertaining to FIRs at the time of application filed by the petitioner is concerned, Section 6 does not lay down any ground that on the basis of suppression of pendency of an FIR, a passport can be refused. So far as suppression in case of impounding is concerned, Section 10



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deals with the same but a Co-ordinate Bench of this Court in Sukhdeep Singh v. Union of India and another(Supra) also dealt with this issue that even in that case as well, the suppression of FIR itself cannot become a ground for impounding of the passport. However, the present case does not pertain to impounding of the passport but it pertains to grant/issue of passport and therefore, the case of the petitioner is governed by section 6 of the Passports Act.”

8.5 In “**Ganni Bhaskara Rao v. Union of India**”, 2022 AIR (Andhra Pradesh); Hon'ble Andhra Pradesh High Court observed as under:-

“5. This Court also holds that merely because a person is an accused in a case it cannot be said that he cannot "hold" or possess a passport. As per our jurisprudence every person is presumed innocent unless he is proven guilty. Therefore, the mere fact that a criminal case is pending against the person is not a ground to conclude that he cannot possess or hold a passport. Even under section 10 (d) of the Passports Act, the passport can be impounded only if the holder has been convicted of an offence involving "moral turpitude" to imprisonment of not less than two years. The use of the conjunction 'and' makes it clear that both the ingredients must be present. Every conviction is not a ground to impound the passport. If this is the situation post-conviction, in the opinion of this Court, the pendency of a case / cases is not a ground to refuse, renewal or to demand the surrender of a passport...”

9. From the above referred judicial pronouncements, it is apparent that mere pendency of criminal case cannot be the ground to deny passport facilities to an applicant since right to personal liberty not only includes applicant's right to travel abroad, but also applicant's right to possess or hold a passport.

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9.1. Further, keeping in view the observations made by Hon'ble the Apex Court in ***Vangala Kasturi Rangacharyulu's case (supra)***, it is clear that if a person convicted of a crime is entitled to seek a passport as held by the Hon'ble Supreme Court of India; this Court does not find any reason to hold that the petitioner who is only an accused in the case mentioned above; cannot hold a passport, especially when this Court vide order dated 20.11.2024 (Annexure P-2) has already stayed proceedings in case FIR No. 21 against the petitioner and even the trial Court has permitted him to get the passport renewed.

10. Taking into consideration the aforesaid facts and circumstances of the case, I am of the considered view that the purpose and intent for which the Notification (GSR 570(E) dated 25.08.1993) has been issued can be well served and protected by issuing necessary directions; accordingly, the instant writ petition is disposed of with the following directions :-

- i) The petitioner herein shall submit an undertaking along with an affidavit before the trial Court(s) concerned in the case(s) wherein petitioner is facing trial, stating that he will not leave India during pendency of the said case without permission of the Court and that he will co-operate with trial Court in concluding the proceedings in the said case.*
- ii) On filing such an undertaking(s) as well as affidavit(s), the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;*
- iii) The petitioner herein shall submit certified copy of aforesaid undertaking(s) before the Respondent No.2- Regional Passport Office for seeking renewal of his passport;*
- iv) The Respondent No.2- Regional Passport Office shall consider the application of the petitioner for renewal of passport in the light of the observations made by this Court*

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herein as well as the contents of the undertaking(s) given by the petitioner for renewal of his passport in accordance with law, within three (03) weeks from the date when the petitioner submits certified copies of undertaking(s) in terms of direction nos.(ii) and (iii) above;

v) On preparation of the Passport, the petitioner herein shall deposit the original renewed Passport before the concerned Court, where the trial in FIR No. 21 dated 01.02.2023 is pending within a period of 10 days from the date of receipt of passport by the petitioner; and

vi) However, liberty is granted to the petitioner herein to file an application before the concerned trial Court(s) for seeking permission to travel aboard and it is for the concerned trial Court(s) to consider the same in accordance with law.

11. All pending applications (if any) shall also stand closed.

July 29, 2025

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No