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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-347-2025 in/and  
IN CRR-2364-2023  
Date of Decision: 06.08.2025

SARABJIT KAUR @ DALBIR KAUR ..... Petitioner

*Versus*

STATE OF PUNJAB ..... Respondent

**CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present : Mr. Ankur Bansal, Advocate  
for the petitioner.

Mr. G.S. Dhaliwal, AAG, Punjab.

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**YASHVIR SINGH RATHOR, J. (Oral)**

1. By this order, I shall dispose of an application moved by applicant seeking permission to apply for a passport before the passport authority. The brief facts of the case are that appellant has been held guilty and convicted vide judgment and order dated 19.09.2014 passed by the Additional Sessions Judge, Gurdaspur and he has been sentenced to undergo imprisonment for 3 years with a fine of Rs.5,000/- and in default of payment of fine to undergo SI for 2 months. The appellant preferred Criminal Appeal CRA-S-4122-SB-2014 which has been admitted vide order dated 07.10.2014 and his sentence has been suspended vide order dated 17.10.2014.

2. Now, the application in hand has been instituted seeking permission to apply for passport before the passport authority.



3. Learned counsel for the applicant contends that application in hand has been moved seeking permission of this Court to apply for issuance of passport of a passport in view of office memorandum dated 10.10.2019 by the Government of India, Ministry of External Affairs PSP Division regarding issuance of passports to the persons against whom criminal cases are pending. Infact, the sons of the applicant are residing in USA and Australia and he intends to visit them alongwith his wife. Therefore, he prays that the permission be granted to apply for the issuance of a passport.

4. Learned counsel for the petitioner as well as learned State counsel have been heard and material collected by the police during investigation has been perused.

5. It would be necessary to examine the relevant provisions of the Passport Act, to decide the present application.

Section 6 of the Passport Act, 1967 held as under:-

*“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 country under clause (b) or 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 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.*

Section 22 of the Passport Act, 1967 held as under:-

*“22. Power to exempt.—Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—*

*(a) exempt any person or class of persons from the operation of all or any of the provisions of this Act or the rules made thereunder; and*

*(b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of*



*persons to the operation of such provisions.*

6. The Notification dated 25.08.1993 of the Ministry of External Affairs, Government of India, is reproduced below:-

*“MINISTRY OF EXTERNAL AFFAIRS NOTIFICATION*

*New Delhi, the 25<sup>th</sup> August, 1993*

*G.S.R. 570(E).-In exercise of the powers conferred by clause (a) of Section 22 of the Passport Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.G.S.R. 298(E), dated the 14<sup>th</sup> April 1976, the Central Government being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from Section of the said Act, subject to the following conditions, namely:-*

*(a) the passport to be issued to every such citizen shall be issued-*

*(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or*

*(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year;*

*(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or*

*(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be*



*issued for the period of travel abroad specified in the order.*

*(b) any passport issued in terms of (a) (ii) and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;*

*(c) any passport issued in terms of (a) (i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;*

*(d) the said citizen shall give an undertaking in writing to the passport, issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.*

*[No.VI/401/37/79]*

*L.K. PONAPPA, Jt. Secy. (CPV) ”*

7. The Office Memorandum dated 10.10.2019 issued by Ministry of External Affairs, Government of India reads as under:-

No.  
VI/401/1/5/2019  
Government of  
India Ministry of  
External Affairs  
PSP Division

Patiala House Annexe, Tilak Marg  
New Delhi, the 10th October, 2019

OFFICE MEMORANDUM

Subject:- Issue of passports to applicants against whom criminal cases are pending before a court of law in India.

Reference is invited to Notification No. GSR 570(E) dated 25.08.1993 regarding issuance of passports to applicant who have criminal proceedings pending against them and whose applications would attract the provisions of clause (f) of sub-section (2) of Section 6 of the Passports Act, 1967.



2. *GSR 570(E) dated 25.8.1993 is reproduced below for reference:*

GSR 570(E) - In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No. GSR 298(E) dated the 14<sup>th</sup> April 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

*(a) the passport to be issued to every such citizen shall be issued-*

*(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or*

*(ii) if no- period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;*

*(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year;*

*(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport then the passport shall be issued for the period of travel abroad specified in the order.*

*(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;*

*(c) any passport issued in terms of (a)(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;*

*(d) the said citizen shall give an undertaking in 'writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.*

3. *It may be noted that applicants may be refused passports only on grounds mentioned under Section 6(2) of the Passports Act, 1967. Section 6(2)(f) of the Act states that the passport authority shall refuse to issue a passport or travel document to an applicant on the ground that proceeding in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India. GSR 570(E) dated 25 .8.1993 was introduced to give relief -to such applicants against whom criminal proceedings are pending before any Court of law in India but who may need to travel abroad for some urgent business. With an undertaking under GSR 570(E) and an order from the Court, an applicant could be issued a short validity passport of one year validity or for the period specified by the Court.*



*4. It has been noticed that there are an increasing number of references being received regarding passport applications attracting Section 6(2) (f). It has also been brought to Ministry's notice that there are a number of complex issues involved while processing such applications. During the proceedings in a recent court case, the Hon 'ble High Court of Delhi in W.P. (CRL) No. 2844/2018 /CRL.M .A 48674/2018 has directed that guidelines be issued by the Ministry reiterating the procedure for processing of such applications and emphasizing that such applications need to be processed with due care and diligence.*

*5. In view of the above, the following instructions may be adopted while processing the passport applications in respect of those applicants who may have criminal proceedings pending before a criminal court in India:*

i) The provisions of GSR 570(E) may be strictly applied in all cases. GSR 570(E) is a statutory notification and hence forms part of the Rules. It is to be noted that as per Section 5(2) of the Passports Act, 1967, the passport authority shall by order in writing take a decision whether to issue or refuse a passport, after making such inquiry, if any, as it may consider necessary. Moreover, Section 7 of the Passports Act, provides that a passport or travel document may be issued - for a shorter period than the prescribed period if the passport authority , for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period. Rule 12 of the Passport Rules, 1980 only states that an ordinary passport shall. e in force for a period of 10 years which implies that an ordinary passport cannot be issued beyond a period of 10 years.

*(ii) Whenever an applicant is submitting a 'No Objection Certificate ' (NOC) from a Court of law in India, the applicant should be advised that undertaking as per GSR 570(E) should be complete in all respects and should mention all the pending criminal cases against the applicant. The undertaking will have a note clearly stating that if any false or incomplete information is submitted by an applicant, then his passport application is liable to be rejected.*

*(iii) Extant instructions clearly lay down that such applications should be processed on pre-Police Verification (PV) mode. "Pre-PV" would be mandatory in all cases of applications submitted with GSR 570(E) to ensure that the undertaking submitted by the applicant is properly matched with the criminal cases mentioned in the Police Verification Report (PVR). Hence, such applications should not 'be accepted under Tatkaal nor such applications be moved to "post-PV" mode or "No-PV" mode without proper justification and approval to be recorded in writing.*

*(iv) If an undertaking is incomplete or misleading and the applicant is found to have suppressed details of other criminal cases against the applicant, a Show Cause Notice should be issued to the applicant and action initiated against that applicant as per provisions of section 12 of the Passports Act, 1967. If information that an applicant has obtained a passport by making a false submission or by suppressing material facts comes to light after the passport has been issued, the passport may be impounded or revoked as per provision of Section 10(3) (b) of the Passports Act, 1967, after following the due procedure.*

*(v) In case where the first Police Verification (PV) is 'Adverse', secondary police verification may be generated. While a secondary*



*PV is generated, it should be accompanied by a detailed letter seeking clarification regarding the pending criminal cases against the applicant and the status of these cases. Apart from generating secondary PVR, the pas port officers may, if considered necessary, call for discreet enquiry through the police authorities by' sending the court order submitted by the applicant or even seek verification from other government agencies/departments, as the case may be.*

*(vi) In case where the secondary Police Verification is also 'Adverse', it may be examined whether the details brought out in the 'police report match the undertaking submitted by the applicant. It may be noted that mere filing of FIRs and cases under investigation do not come under the purview of Section 6(2)(t) and that criminal proceedings would only be considered pending against an applicant if a case has been registered before any Court of law and the court has taken cognizance of the same.*

*(vii) If the details given in the police report and the undertaking submitted by the applicant are matching, then the 'No Objection Certificate' issued by a Court of law submitted by the applicant would take precedence over any 'Adverse' report submitted by the police. In such cases, the 'Adverse' report may be overruled with the written approval of the Passport Officer.*

*(viii) If the details given in the PVR and the undertaking submitted by the applicant are at variance, then a notice may be issued to the applicant calling for clarification and advising the applicant to submit details of all pending criminal cases as well as to submit a revised No Objection Certificate (NOC).*

*(ix) If it is brought to the notice of the authority that an applicant has criminal proceedings arrayed against him before several courts of law, then the applicant may be advised to get NOC from all the concerned court(s). Normally, the Court Order would make a mention of the cases pending against the applicant as well as the prayer made by the applicant. This may be examined along with the undertaking submitted, by the applicant and complaints or other courts, if any, that may have been received against the applicant.*

*(ix) It may be noted that GSR 570(E) only exempts an applicant from the operation of Section 6(2)(t) and none of the other sub-sections of Section 6(2) of the Passports Act, 1967.*

*(xi) A revised Undertaking under G R 570(E) is attached at Annexure 'A'.*

*(xii) Passport Officers may issue an internal SOP along the above lines so that there is no confusion in handling of applications that would attract provisions of section 6(2)(t) of the Passports Act, 1967.*

6. *The above instructions may be noted for strict compliance with immediate effect.*

(Arun Kumar Chatterjee) Joint



Secretary (PSP) & Chief  
Passport Officer”

8. A perusal of the aforementioned provisions of the Passports Act shows that the Passport Authority can refuse to issue a passport or travel document, where proceedings in respect of an offence alleged to have been committed by the applicant-appellant are pending before a Criminal Court in India.

However, in terms of Section 22 of the Passport Act any person or class of persons can be exempted from the operation of all or any provisions of this Act or the Rules thereunder.

In terms of Section 22 of the Passport Act, a Notification dated 25.08.1993 of the Ministry of External Affairs, Government of India (supra) was issued, according to which citizens of India are exempted from the operation of Sections 6 and 6(2F) of the Passport Act, if they produce orders from the Court (No Objection Certificate) permitting them to depart from India. The said notification is referred to in the Office Memo NO.VI/401/1/5/2019 Government of India Ministry of External Affairs PSP Division Dated 10.10.2019 (Annexure A-1).

9. A Coordinate Bench of this Court while deciding ***CRA-S-4122-SB-2014*** titled as ***‘Davinder Singh and others Vs. State of Punjab’*** vide order dated 10.01.2024 has allowed similar prayer and granted permission to apply for passport before the Passport Authority in a case, where accused was involved in a criminal case which squarely covers the present case.

10. In view of the Notification dated 25.08.1993 and office memo dated 10.10.2019 (Annexure A-1) read with the provisions of the Passport Act and the relevant judgment (supra), it is apparent that this



Court can, during the pendency of Criminal Proceedings grant the necessary clearance to the applicant enabling him to apply for a passport.

11. In view of the above, the prayer of the applicant is accepted and he is granted permission to apply for the issuance of a Passport before the Passport Authority and the said Authority without raising objections relating to the pendency of the present criminal appeal in this Court but subject to the other conditions being fulfilled consider the case of the applicant for the issuance of a passport in accordance with law.

12. The application stands disposed of.

13. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)  
JUDGE

06.08.2025  
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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |