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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 3166/2025 & CRL.M.A. 13917/2025**

KAUSHALYA DEVI

.....Petitioner

Through: Mr. Tushar Ronmetra, Ms. Narinder
Rana, Advocates

versus

THE STATE OF NCT OF DELHI AND ANRRespondents

Through: Mr. Hemant Mehla, APP for the State
with SI Naveen Dahiya, PS Prashant
Vihar, Rohini Distt, Delhi

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

06.05.2025

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1. Issue notice. Mr. Hemant Mehla, APP for the State. Considering the nature of relief sought, reply is dispensed with. With the consent of the parties, the matter is taken up for final disposal at the admission stage.
2. The Petitioner is facing trial in proceedings emanating from FIR No. 888/2016, registered under Sections 323, 354, 354A, 354B, 451, 506, 509 and 34 of the Indian Penal Code, 1860 at P.S. Prashant Vihar. In the said proceedings, the Petitioner was granted anticipatory bail by the ASJ (FTC), North, Rohini Courts by order dated 10th January, 2017 in Bail Application No. 95/2017, and continues to remain on bail. The said order imposes no condition for seeking prior permission before travelling out of the country.
3. The difficulty faced by the Petitioner stems from the refusal by the

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Passport Authorities to renew her passport for a period of 10 years on the ground that she is an accused in a pending criminal case. This action is purportedly in terms of a notification issued by the Ministry of External Affairs bearing No. G.S.R. 570(E), dated 25th August, 1993, purporting to exercise powers under Section 22(a) of the Passports Act, 1967.¹ The said notification stipulates that where a person is facing a criminal proceeding, the renewal of their passport can only be done upon a court order permitting them to leave the country, and, in the absence of such a specific directive regarding the duration, the renewed passport shall be valid for a maximum period of one year. The said notification reads as follows:

“G.S.R. 570(E).— In exercise of powers conferred by clause (a) of Section 22 of the Passports Act, 1967 (15 of 1967) and in suppression of the notification of the Government of India in the Ministry of External Affairs No. G.S.R. 298 (E), dated 14th April, 1976, the Central Government, being of the opinion that it is 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; 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 a period of travel abroad specified in the order.*

¹ “the Passports Act”



(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.”

4. In light of the above notification, the Petitioner approached the Trial Court seeking an NOC for renew her passport for a period of 10 years. The Trial Court, by order dated 29th March, 2025, disposed of the application with the following direction:

“This court has no objection in case applicant accused Kaushalya Devi in FIR no. 888/2016, PS Prashant Vihar applies for renewal of Passport as per rules. The applicant/accused shall not leave the country without permission of this court.

Application stands disposed off.

Copy of order be given dasti to counsel for applicant.”

5. The Petitioner submits that this issuance of passport for a limited period of one year is cause of great of inconvenience to Petitioner, since in the event of travelling abroad, it is mandated by all the countries that passport should be valid for at least six months from the date of arrival/return to the country. This leaves a narrow window for the Petitioner to travel abroad and in the event, if there is some urgent travel, the Petitioner would have to again go through the process for issuance of passport.

6. In this background, the Petitioner has invoked the inherent powers of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita,

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2023, seeking the following prayer:

*“(a) Set-aside the order dated 29.03.2025 on Application for renewal of Passport in case FIR bearing no. 888/2016, PS Prashant Vihar titled as “**State vs Devender Kumar & Ors.**”, passed by the court of Ms. Priya Janghu, Ld. JMFC, North District, Rohini Courts, Delhi; and/or*

(b) Issue necessary directions for renewal of passport of Petitioner for a period of 10 years, as being done in all the general cases and in accordance with Notification No. GSR 570(E) dated 25.08.1993 issued by Ministry of External Affairs and/or; ”

7. The Court has considered the aforesaid facts and contentions. A plain reading of the order dated 29th March, 2025 makes it clear that the Trial Court has granted a No-Objection Certificate² to the Petitioner to apply for renewal of her passport “as per rules”, while simultaneously directing that she shall not travel abroad without prior leave of the Court. No restriction has been placed on the duration for which the passport may be renewed. The Trial Court has confined itself to the judicial role envisaged under the statute, i.e., ensuring that the Petitioner does not travel without permission of the Court, rather than deciding the duration or terms of the passport itself. This, in the opinion of the Court, is the correct approach having regard to provisions of the Passports Act.

8. At this juncture, it must be noted that the issue that falls for determination is not whether the Petitioner can leave the country or whether an NOC from the Court is required for renewal, but whether the renewal of her passport must necessarily be confined to a one-year term in the absence of any express directions from the Court. The crux of the problem lies in the interpretation and legal effect of the aforesaid notification issued by the

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Ministry of External Affairs. The notification, in substance, appears to condition the issuance or renewal of a passport to an accused facing trial, upon specific directions issued by the Court. Where the Court is silent on the validity period, it prescribes a default tenure of one year.

9. The Passports Act, 1967 is a complete code that governs the issuance, denial, impounding, and renewal of passports. Section 6(2)(f) of the Act empowers the Passport Authority to refuse issuance or renewal of a passport where criminal proceedings are pending against the applicant, unless the Court has granted permission to travel. The said provision reads as follows:

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

(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:—

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

10. The afore-noted provision focuses entirely on the permissibility of travel, not on the duration of the passport to be granted. However, by way of the notification dated 25th August, 1993, the Government has exempted the operation of the afore-noted provision for citizens of India against whom proceedings in respect of an offence alleged who have been committed by them are pending before a Criminal Court in India. For availing this exemption, citizens are required to produce orders from the Court concerned permitting them to depart from India. The insistence on specific directions from the Court for determining the duration of a passport is neither premised

² “NOC”



in the parent statute nor supported by any Rules framed thereunder. The Passports Act does not contain any provision that empowers the Court to adjudicate on such administrative matters.

11. While the notification dated 25th August, 1993 purports to be issued under Section 22(a) of the Passports Act, it cannot be read as imposing binding conditions on the Court. Section 22(a) merely empowers the Central Government to exempt any person or class of persons from the operation of the provisions of the Passports Act or any Rule framed thereunder. It does not empower the Government to impose a new regime of conditions for passport issuance where the parent statute is silent. The notification, in essence, goes beyond exemption and creates a positive obligation on Courts to specify validity periods and imposes contingent restrictions where no such requirement exists under the statute.

12. The practice of requiring a Court order specifying the duration of the renewed passport is, at best, an internal administrative measure, and cannot be read as having the force of law. The Court's role in the passport issuance or renewal process is limited to ensuring that the individual seeking a passport has not been prohibited from leaving the country under specific orders of the Court, such as bail conditions. However, beyond this, the Court is not required to intervene in determining the duration of a passport's validity. In the present case, the Trial Court discharged its limited judicial function in accordance with law by declining to impose any embargo on the renewal of passport and requiring the Petitioner to seek prior leave to travel as per the statute. The interpretation placed by the Passport Authorities on the 1993 notification, as requiring a court-specified validity period, is

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plainly inconsistent with the Passports Act. The power to determine such administrative details, particularly the validity period, remains exclusively with the Passport Authorities under the Passports Act and the Rules framed thereunder and is not dependent on judicial directives unless the Court has itself curtailed the rights of the individual.

13. It is well established that delegated legislation cannot transgress the limits of the enabling statute. The Supreme Court in ***Supreme Court Employees Welfare Association v. Union of India***,³ observed that “a delegated legislation or a subordinate legislation must conform exactly to the power granted.”. In ***Naresh Chandra Agrawal v. Institute of Chartered Accountants of India and Others***,⁴ the Supreme Court reiterated held that while rules and notifications issued under delegated authority may be presumed valid, they must not override or supplement the parent Act. A notification cannot be treated as a source of substantive obligations unless the statute itself clearly permits such delegation.

14. The notification effectively introduces a regime where Courts are expected to pronounce on the period of passport validity, and if they refrain from doing so, the citizen’s entitlement is curtailed to one year, regardless of the circumstances. This is wholly inconsistent with the legislative scheme of the Passports Act. If Parliament had intended that Courts determine the term of validity for a passport where criminal proceedings are pending, it would have clearly articulated so under the Act. In its current form, the notification seeks to insert by executive fiat what the legislature has consciously omitted.

³ (1989) 4 SCC 187

⁴ 2024 SCC OnLine SC 114



It is a settled principle that delegated legislation cannot supplement primary law where the statute is silent.⁵

15. The notification cannot be treated as binding on Courts or interpreted as modifying the scheme of the Act. The order of the Trial Court in the present case has, in fact, correctly recognised this position. By stating that there is no objection to the Petitioner applying for renewal “*as per rules*,” the Court has rightly left it to the Passport Authority to decide the matter in accordance with the law. There is no warrant for reading into this order any implied limitation or default tenure of one year. Once the Court has declined to restrict the Petitioner’s right and left the matter to the statutory framework, the Passport Office must apply the law as it stands and consider the Petitioner’s application without invoking any artificial constraint introduced by the 1993 notification.

16. This Court, therefore, deems it appropriate to clarify that notification may serve as a general administrative guideline, it cannot override the provisions of the parent statute, nor can it impose any obligation upon the Courts to pronounce on the tenure of a passport. The judicial function is to assess whether a person ought to be restrained from travelling abroad on account of pending proceedings. If the Court imposes no such restriction, and merely states that travel abroad shall require prior permission, the Passport Authority must proceed in accordance with law, treating the application for renewal on its merits. The validity period of the passport is to be governed by the Passports Act and the Passport Rules, not by the absence

⁵ *St. Johns Teachers Training Institute v. Regional Director, National Council for Teacher Education & Anr.*, 2003 (3) SCC 321



of a court-imposed tenure.

17. In the facts of the present case, it is not disputed that the Petitioner is facing trial in FIR No. 888/2016, but is protected by an order of anticipatory bail. The Trial Court has granted an NOC for renewal of passport, while expressly preserving the requirement of prior permission in the event the Petitioner wishes to travel abroad. Thus, the Petitioner is not restrained by any order of the Court from possessing a passport or seeking its renewal. The Passport Office must therefore, consider her application afresh in accordance with law, without insisting on a court-specified validity period.

18. In view of the foregoing discussion, the present petition is disposed of with a direction to the Passport Authority to consider the Petitioner's application for renewal of passport in accordance with the Passports Act and the Rules framed thereunder, uninfluenced by the absence of any Court-specified validity period in the Trial Court's order dated 29th March, 2025.

19. Petition stands disposed of accordingly.

SANJEEV NARULA, J

MAY 6, 2025/ab

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