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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1322/2026 and CM APPL. 6447-6448/2026**

SHRI SANJAY MALHOTRA

.....Petitioner

Through: Mr. Madhav Khurana, Senior
Advocate with Mr. Amit Badesra,
Ms. Asees Kaur, Mr. Asif Ahmed,
Mr. Utkarsh Routh, Advocates

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Dr. B. Ramaswamy, CGSC
Mr. Vinay Kaushik, Advocate.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER
30.01.2026

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CM APPL. 6449/2026 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1322/2026 and CM APPL. 6447-6448/2026

1. The instant petition is for the following reliefs:-

“i. Pass an order issuing a writ of certiorari, or any other appropriate writ, setting aside and quashing the Impugned Order dated 04.12.2025, passed by the Respondent No. 1.

ii. Pass an order issuing a writ of mandamus, or any other appropriate writ directing Respondent No. 2 to renew the Petitioner's passport for a full validity period of ten (10) years.

iii. Pass such further order(s), direction(s) or relief(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interests of justice.”



2. Heard learned counsel appearing on behalf of the parties.
3. *Vide* the impugned order dated 04.12.2025, the Appellate Authority has rejected the petitioner's appeal for the following reasons:-

"7. And now, therefore, having gone through all the records and in light of the full facts and circumstances of the case, I, as the Appellate Authority, as per the provisions u/s 11 of the Passports Act, 1967, decide the appeal as under:-

(i) The appellant i.e. Shri Sanjay Malhotra admitted that he is facing Trial in criminal case No. 511/2015, 651/2015 and 648/2016 u/s 420 & 120B of the IPC and PCMCS before the Court of Chief Judicial Magistrate, Hyderabad.

(ii) Since appellant could not furnish Trial Court's permission to depart from India, PO, vide Order dated 13.08.2025, refused the appellant's passport file No. GZ1070799739625 dated 07.03.2025, u/s 6(2)(f) of the Passports Act, 1967.

(iii) As per the provisions of MEA Gazette Notification No. GSR 570 (E) dated 25.08.1993, any applicant against whom proceedings before a Criminal Court is pending, such applicant is required to submit permission of the Court to depart from India along with prescribed undertaking. However, the appellant did not furnish the same to PO.

(iv) In view of the above para(s), action of PO in refusing the appellant's passport application No. GZ1070799739625 dated 07.03.2025 u/s 6(2)(f) of the Passports Act, 1967 is in order.

(v) Appeal is not allowed."

4. Mr. Madhav Khurana, learned senior counsel for the petitioner places reliance on the decision of the Supreme Court in the case of ***Mahesh Kumar Agarwal vs. Union of India & Anr.***² and submits that in paragraph no.16 of the said decision, such an approach has been held to be not permissible and the permission to depart of the Trial Court concerned is, now, not necessary. Paragraph nos. 16 and 30 of ***Mahesh Kumar Agarwal***, are extracted as

² 2025 SCC OnLine SC 2887 or 2025 INSC 1476



under:-

“16. The respondents and the Calcutta High Court have also treated the expression “permission to depart from India” in GSR 570(E) as if it necessarily refers only to a concrete permission for an immediately proposed journey. We do not read the notification in so narrow a manner. Where, as here, the conditions of bail already stipulate that the appellant shall not leave the country without prior permission of the court concerned, and the same court then grants no objection to renewal of the passport without relaxing that condition, the requirement that departure from India shall be subject to judicial permission is built into the very terms of the exemption. The passport authority is not required, at the renewal stage, to demand a schedule of future journeys or visas which may not yet exist. Its task is to see whether, despite pending proceedings, the criminal courts have chosen to keep the possibility of travel open under their supervision. Once that position is clear, GSR 570(E) applies and the bar under Section 6(2)(f) cannot be invoked to refuse renewal altogether.

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30. The respondents are directed to re-issue an ordinary passport to the appellant for the normal period of ten years from the date of issue, subject to compliance with the usual procedural requirements, within a period of four weeks from the date of production of a copy of this judgment before the RPO, Kolkata. The passport so issued shall remain subject to all existing and future orders passed by the NIA Court, Ranchi, and the Delhi High Court, including, in particular, the conditions that the appellant shall not leave India without prior permission of the court concerned and shall deposit the passport in that court as and when so directed.”

5. In view of the Supreme Court decision, this Court also on 07.01.2026 has disposed of two writ petitions bearing W.P.(C) 15662/2025 and W.P.(C) 7471/2025.

6. In W.P.(C) 15662/2025, the Court has issued following directions:-

“(i) Let the case of the petitioner be considered afresh while granting opportunity of personal hearing.

(ii) Let the petitioner to approach the concerned authority on 23.01.2026 at 11:00 A.M. On petitioner’s appearance, let he be extended opportunity of hearing and reasoned order be passed by the concerned authority not beyond 30 days from the said date.”



7. Having considered the overall facts and situation, the Court finds that the rejection of the petitioner's appeal is contrary to the principles laid down by the Supreme Court. Accordingly, the order dated 04.12.2025 is hereby set aside.

8. Let the case of the petitioner be considered by the concerned passport authority afresh after granting liberty of personal hearing, and strictly in accordance with the principles laid down by the Supreme Court in ***Mahesh Kumar Agarwal***.

9. The said exercise be carried out within a period of thirty days.

10. With the aforesaid observations, the instant petition stands disposed of along with all pending applications.

PURUSHAINDRA KUMAR KAURAV, J

JANUARY 30, 2026

Nc/amg