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

+ **W.P.(C) 6311/2026 and CM APPL. 31015/2026**

SUNIL BAGAI

.....Petitioner

Through: The petitioner in person.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Ms. Avshreya Pratap Singh Rudy,
(CGSC) Ms. Usha Jamnal, Ms. Nyasa
Sharma,. Mr. Ankit Khatri, Advocates
for UOI.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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08.05.2026

1. The petition is for the following reliefs:

“a) Issue a writ of Certiorari or any other appropriate writ/order/direction thereby quashing and setting aside the impugned objection letter dated 09.04.2026 bearing Ref. No. OBJ/I 053416599/26 issued by Respondent No.2;

b) Issue a writ of Mandamus directing the Respondents to forthwith process Passport Application No. DLF077194579626 and renew/re-issue the Petitioner's passport without insisting upon NOC from any criminal Court”

2. The petitioner essentially seeks to challenge the objection letter dated 09.04.2026 issued by respondent no. 2, whereby, the petitioner has been required to obtain no objection certificate (NOC) from a Criminal Court for renewal of petitioner's passport.



3. It remains undisputed that a First Information Report (FIR) bearing no. 220/2025 has been filed against the petitioner. The FIR is registered at Police Station Vasant Kunj (North) for offence under Section 384, 506 and 34 of the Indian Penal Code, 1860. It is the petitioner's case that on the complaint having been received from petitioner's neighbour, the FIR was registered. The said FIR has been challenged by the petitioner in W.P. (CRL) 3949/2025, wherein, the Court has issued the notice on 01.12.2025 and the matter is pending.

4. The petitioner, thus, contends that merely on the basis of the pendency of an FIR, the petitioner's right for renewal of the Passport cannot be curtailed. The petitioner places reliance on a decision in the case of ***Mahesh Kumar Agarwal v. Union of India***¹.

5. The Court has considered the aforesaid decision passed by the Supreme Court and finds that in paragraph no. 7.8, the same notification GSR 570(E) dated 25.08.1993 was also under consideration before the Supreme Court, which has been the basis of the impugned objection letter dated 09.04.2026. In paragraph nos. 7.8 to 11 of the said decision, the Supreme Court has held as under:

"7.8. In exercise of the power under Section 22 of the Passports Act, the Central Government issued notification GSR 570(E) dated 25.08.1993. By this notification, 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 were exempted from the operation of Section 6(2)(f), subject to conditions. The notification, inter alia, provides that:

"(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

¹ 2025 SCC OnLine SC 2887



(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.”

7.9. The Ministry of External Affairs thereafter issued the OM dated 10.10.2019 (No. VI/401/1/5/2019). By this Office Memorandum, all Passport Authorities were directed to apply GSR 570(E) strictly in cases where criminal proceedings are pending, to insist on an undertaking in terms of the notification, and to treat a “no objection certificate” or permission granted by a criminal court as prevailing over an adverse police report, while keeping in view that in cases covered by Section 6(2)(f) the passport is ordinarily to be issued for a shorter period, consistent with the scheme of the Passports Act and the Passport Rules.

8. From a conjoint reading of Sections 5, 6, 7 and 8 of the Passports Act, a structured scheme emerges. Section 5 is the starting point. It prescribes the manner in which an application for a passport is to be made and requires the passport authority, subject to the other provisions of the Act, to decide the application by issuing or refusing the passport through a written order. Section 6 qualifies that power and sets out, in an exhaustive manner, the grounds on which the passport authority shall refuse to issue a passport or travel document. Sub-section (1) deals with refusal of endorsements for particular countries. Sub-section (2) governs refusal of issue itself and again begins with the words “subject to the other



provisions of this Act”. It obliges the authority to refuse issue where any of the situations in clauses (a) to (i) are present, including the pendency of criminal proceedings before a court in India under clause (f). Section 7 then addresses the duration of a passport. It provides that a passport shall continue in force for such period as may be prescribed, but also permits the authority, for reasons to be communicated in writing to the applicant, to issue a passport for a shorter period in an appropriate case. Section 8 deals with the converse situation where a passport has already been issued for a shorter period. It permits extension of such a passport, but expressly states that the provisions of the Act shall apply to such extension as they apply to the issue of the passport, thereby linking an extension back to the same statutory conditions and limitations that govern original issue under Sections 5 and 6.

9. Sections 9, 10 and 22 reinforce and complete this framework. Section 9 enables the Central Government, by rules, to prescribe the conditions subject to which and the form in which a passport shall be issued or renewed. It also permits, with prior approval of the Central Government, the imposition of case-specific conditions in addition to the prescribed ones. Section 10 operates at a later stage and deals with the life of a passport after it has been issued. It empowers the passport authority, in defined situations, to require production of the passport and to impound or revoke it. One such situation, under Section 10(3)(e), is where proceedings in respect of an offence alleged to have been committed by the holder are pending before a criminal court in India. Section 22 then confers on the Central Government the power, where it considers it necessary or expedient in the public interest, to exempt any person or class of persons from the operation of specified provisions of the Act or the Rules, subject to conditions. It is in exercise of this power that GSR 570(E) was issued, creating a controlled exemption from the bar in Section 6(2)(f) in favour of persons facing criminal proceedings who obtain permission from the concerned court and comply with the conditions set out in that notification.

10. On a plain reading, GSR 570(E) does two things. First, it recognises that persons facing criminal proceedings are not to be treated as absolutely disentitled to a passport. Instead, it permits such persons to obtain a passport, notwithstanding Section 6(2)(f), where the concerned criminal court has applied its mind and passed an order in relation to issuance or use of the passport and where the applicant furnishes an undertaking to appear before the court as and when required. Secondly, it structures the exercise of that exemption by tying the validity and use of the passport to the terms of the court's order. Thus, where the court specifies a period for which the passport is to be issued, the passport authority must honour that period. Where the court does not stipulate any period, the notification provides default rules, including issuance for a



shorter period, ordinarily one year, in appropriate cases. What the notification does not do is to create a new substantive bar beyond Section 6(2)(f), or to insist that the criminal court must, in every case, grant a prior blanket permission to “depart from India” for specified dates as a jurisdictional precondition to the very issue or re-issue of a passport.

11. The OM dated 10.10.2019 does not create a new regime. It reiterates that GSR 570(E) must be “strictly applied”, explains the procedure where criminal cases are pending and makes it clear that a “no objection certificate” or permission from the criminal court, read with the applicant’s undertaking, may override an adverse police report with reasons recorded by the Passport Officer. It also contemplates situations where more than one court is dealing with the matter and indicates that the orders of all such courts are to be read together. The OM is thus an administrative restatement of the position under Section 6(2)(f), Section 22 and GSR 570(E), and cannot add to or cut down the exemption which the notification itself grants.”

6. Furthermore, this Court in ***Mukul Mittal v. Superintendent Policy Regional Passport Office***², while adjudicating over the same Notification GSR 570(E) dated 25.08.1993 held that:

“29.The notification further clarifies that the mere registration of FIRs or pendency of investigation does not fall within the ambit of Section 6(2)(f). Criminal proceedings can be said to be pending against an applicant only where a case has been instituted before a court of law and the court has taken cognizance thereof.....

30. Again, an Office Memorandum dated 06.12.2024 was issued by the Ministry of External Affairs, through its PSP Division, purporting to ‘clarify’ that there is no legal provision requiring an applicant to obtain permission/ No Objection Certificate (NOC) from the concerned Court for the issuance/ re-issuance of a passport. Instead, the applicant is required to obtain permission from the concerned Court specifically to depart from India.....

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35. Notably, the Supreme Court in Mahesh Kumar Agarwal vs. Union of India & Anr. (supra) has held that Section 6(2)(f) and GSR 570(E), read with the (Office Memorandums/ notifications issued to clarify the said GSR) cannot be read so as to convert a qualified restriction, designed to secure the presence of an accused, into a near-permanent disability to hold a valid passport, even where the criminal courts themselves do not consider such a

² 2026:DHC:832.



disability necessary. It is also evident that where permission is granted by the court for renewal of a passport, even if the same is expressed in generic terms and not in the exact phraseology used in GSR 570 (E), the same shall be construed as satisfying requirements of GSR 570 (E). In such a situation, the passport shall be renewed for the period directed by the Court where the period is not specified by the Court, the passport would be renewed for a period of one year in terms of GSR 570 (E) read with the above mentioned notifications and the office memorandum.”

7. It is, thus, seen that the case of the petitioner for renewal of the passport will have to be reconsidered by the Passport Authority keeping in mind the principles laid down in the case of **Mukul Mittal** and **Mahesh Kumar Agarwal**.

8. On instructions, Ms. Avshreya Pratap Singh Rudy, learned CGSC for the Union of India, also confirms that the petitioner’s application is under consideration, however, a communication dated 15.04.2026 has been sent to the concerned Police Station seeking detailed status report regarding criminal case and the present stage of proceedings. Since the response is awaited, therefore, the final decision has not been taken.

9. Since the petitioner has himself disclosed that an FIR is pending and the said FIR is also *sub judice* before this Court, the same, however, shall not be the sole reason to reject the petitioner’s application or to deny the renewal of the petitioner’s passport.

10. In any case, let the final decision be taken within a period of 15 days from the date of receipt of a copy of this order passed today.

11. With the aforesaid directions, the petition, along with the pending application, stands disposed of.

12. *Dasti.*

PURUSHAINDRA KUMAR KAURAV, J

MAY 8, 2026/aks/nk