

SC No.27719/2016
FIR No.91/2013
PS Karol Bagh
State vs. Laxmi Kant Mandal

17.11.2025

Present: Sh. Manish Kumar, learned Addl. P. P. for the State.
Sh. Atul Kumar, learned Counsel for accused No.1.
Sh. Taksh Suri, learned Counsel for accused No.2.
Sh. Anil Kumar, learned Counsel for accused No.3.
All the accused in person on bail.

PW-13 examined, cross examined as nil and discharged.

An application has been moved on behalf of accused No.3 Rakesh Kumar seeking permission/ directions for issuance of passport.

Heard.

The learned Counsel for accused No.3 submits that he had applied for issuance of passport with the concerned authorities as he has to travel abroad in connection with his business and due to pendency of the present case the concerned authorities are not issuing passport in favour of the accused No.3. It is further submitted by learned Counsel for the accused that he undertakes not to travel abroad without the prior permission of this Hon'ble Court and he is ready to abide by the terms and conditions as directed. Accordingly it is prayed that necessary

permission/directions be issued to the Regional Passport Authority to issue to passport to accused No.3.

Learned Addl. P. P. for the State opposes the present application.

The relevant citation in this regard is reproduced as under:

Abdul Hamid Vs.Union of India and Anr.in WP(C)
No. 3093/2024 HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT JAMMU vide ORDER dated 07.04.2025

6. Right to travel abroad has been elevated to the status of fundamental right in terms of the ratio laid down by the Supreme Court in case of Menaka Gandhi vs. Union of India and Another, AIR 1978 SC 597, therefore, passport to an Indian citizen, cannot be refused or withheld without adopting the procedure prescribed under law. The procedure for issuance of passport has been prescribed under the Passports Act, 1967. **Section 6 of the said Act enumerates the grounds on which the passport or travel document to a citizen of India can be refused.** It reads as under:

Section 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 foreign 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.

7. **Clause (f) of sub-section (2) quoted above, provides that if the proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India,** it can form a ground for refusal of the passport or travel document. However, **notification No. GSR 570(E) dated 25.08.1993, issued by the Government of India, Ministry of External Affairs, PSP Division,** provides that even in cases where an applicant is facing criminal proceedings before a Criminal Court in India, passport or travel document can be issued to him, subject to certain conditions. It would be apt to reproduce below the said notification :

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 14th 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 subsection (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."

8. From a perusal of the aforesaid notification, it is clear that **notwithstanding the provisions contained in Section 6(2)(f) of the Passport Act, an applicant can be issued passport/ travel document subject to the appropriate orders** from the Court, where the proceedings are pending.

9. In the instant case, admittedly the proceedings in respect of a criminal case are pending against the petitioner before the court of Additional Sessions Judge (Anticorruption Cases) Jammu, therefore, **if the said Court grants 'NOC' in favour of the petitioner, respondent No. 2 would be well within its powers to issue passport/ travel document in favour of the petitioner notwithstanding pendency of a criminal case** against the petitioner.

In view of the above and keeping in view the facts and circumstances of the case, the accused No.3 Rakesh Kumar is granted permission for issuance of passport by the concerned Regional Passport Authority with direction to the accused No.3 that on the occasion of his travel abroad after issuance of passport the same would be subject to the following conditions that he would not travel abroad without prior permission of the Court and the date of visit abroad by the accused No.3 Rakesh Kumar should not in any manner hamper the trial. Further the accused will not dispute his identity during the course of the trial. With these directions this application stands disposed.

Let two more prosecution witness be summoned for recording of PE on **22.12.2025**.

(Joginder Prakash Nahar)
ASJ (FTC)-1,
Central District, Tis Hazari Courts,
Delhi/17.11.2025