

CC no. 66/2021
CBI Vs. Abhishek Tiwari & Ors.
RC no. RC 218/2021/0005/CBI/AC-III/ND
CNR no. DLCT11-000488-2021

27.09.2024

Present application has been moved on behalf of accused Abhishek Tiwari for NOC for applying passport for a period of 10 years.

Present: Sh. Raj Kamal, Ld. PP for CBI.

Shri Abhishek Mahel, Ld. Counsel for applicant/accused Abhishek Tiwari.

Accused Abhishek Tiwari has appeared through VC.

By way of present application, the applicant/accused Abhishek Tiwari is seeking NOC for applying new passport for a period of 10 years. It is stated by Ld. Counsel for applicant that NOC is required for issuance of new passport in the matter where criminal trial is pending against the accused.

Reply to the application has been filed on behalf of CBI whereby Ld. PP for CBI has vehemently opposed the application and in his submissions also refers to GSR 570(E) dated 25.08.1993 which mandates re-issue/renewal of passport for a period of one year only. It is further stated by Ld. PP that accused was involved in illegal acts and charge-sheeted for participating in criminal conspiracy with other accused persons for accepting illegal gratification / reward and scuttling the investigation of RC 2232021A0003.

I have given my thoughtful consideration to the rival submissions and have perused the record carefully. Perusal of the record

reveals that accused Abhishek Tiwari was admitted to bail vide order dated 11.02.2022 subject to one of the condition that he shall not leave the country without permission of the Court. Perusal of record reveals that accused is appearing in court regularly and has not violated any condition of the bail order.

The Office Memorandum No.VI/401/1/5/2019 dated 10.10.2019 of the Ministry of External Affairs, PSP Division, Govt. of India, provides instructions to the Passport Issuing Authority in respect of processing the passport applications in respect of those applicants who may have criminal proceedings pending before a Criminal Court in India. These instructions are to be found in Para 5 of the given Memorandum and first of such instruction is of strictly applying the provisions of GSR 570 (E) dated 25.08.1993 in all cases.

As per GSR 570(E), the passport to be issued to an applicant/accused against whom criminal case proceedings are pending before a Court of Law in India, is to be for a period specified in the order of the given Court, if the Court specifies a period for which the passport has to be issued. It is only when no period either for the issue of passport or for the travel abroad is specified in such order, that the passport issuing authority is to issue the passport for a period of one year only. Rule 12 of the Passport Rules, 1980 which is quoted in the first instruction in Para 5 of the Office Memorandum, states that an ordinary passport shall be in force for a period of 10 years. One of the other instructions as at sub para (ix) of Para 5 of the Office Memorandum is of the applicant to obtain NOC from all the concerned Courts where criminal proceedings against such an applicant are pending.

Therefore, in view of the instructions as contained in the Office Memorandum as noted above and the GSR 570 (E) dated 25.08.1993 as reproduced therein, there is no bar for the Court to give NOC for the issuance of the passport for a period of more than one year.

This court is of the considered view that no useful purpose would be served by restraining the accused from obtaining valid passport for 10 years merely because of pendency of this case, when there is no apprehension of his evading process of law.

In view of the aforesaid facts and circumstances, the application is allowed and it is clarified that this Court has no objection to the issuance of passport to accused Abhishek Tiwari for a period of 10 years subject to the accused/applicant fulfilling other rules and regulations of the passport issuing authority.

Copy of this order be given dasti to the accused and to the CBI, as prayed. Application is accordingly disposed off.

(ANKIT SINGLA)
SPECIAL JUDGE-02, CBI (PC ACT)
RADC, NEW DELHI/27.09.2024