

ED vs. M/s OPG Securities Private Limited & Ors.
ECIR no. DLZO-I/01/2019
CNR no. DLCT 11-000811-2022

08.11.2024

(Present proceedings have been conducted on Hybrid Mode)

Present application has been moved on behalf of A-2 Sanjay Gupta seeking direction for renewal of passport.

Present: Sh. Manish Jain, Ld. Special PP for ED has appeared through VC (Cisco Webex).

Accused/applicant Sanjay Gupta alongwith Ld. Counsel Shri Harshit Sethi have appeared through VC (Cisco Webex).

1 By way of present application, the applicant/accused Sanjay Gupta is seeking direction to the Regional Passport Officer, New Delhi for renewal of his passport bearing No. K2917404 for a period of ten years.

2 It is further submitted that in the present case, complaint was filed by the ED in December, 2022 without the arrest of applicant who was granted bail by this court vide order dated 10.03.2023. It is further submitted that in the scheduled offence, applicant had approached this court seeking directions for release and renewal of passport and vide order dated 31.07.2024, said application was allowed. It is further submitted that applicant accordingly applied for renewal of his passport, but the Regional Passport Office sent a letter dated 04.10.2024 to the applicant stating that although applicant had provided the NOC of this court in CC No. 28/2022 however, similar NOC is required in the present case CT Case No. 34/2022 as well. Copy of

communication dated 04.10.2024 is annexed as Annexure A-3. Applicant has accordingly prayed for permission/NOC for renewal of his passport for a period of 10 years.

3 Reply filed on behalf of ED. It is submitted that the case is at crucial stage and accused may use this opportunity to flee from the country. It is further stated in the reply that applicant being the Director of M/s OPG Securities Pvt. Ltd. was instrumental in generation/acquisition of proceeds of crime by way of making illegal gains and abusing the server architecture of NSE. It is further stated that to take the advantage, several steps ahead by logging in first to the secondary server, applicant clearly demonstrated his intent of cheating NSE, other trading members and gaining undue advantage at the cost of other brokers. Ld. Special PP has prayed for dismissal of the application.

4 It is orally stated by Ld. Counsel for the accused that in terms of Notification no. G.S.R.570(E) dt. 25.08.1993 and Office Memorandum No. VI/401/1/5/2019 dt. 10.10.2019 issued by the Ministry of External Affairs, and Clause 17(c) of the Form EA(P)-1 for India, the passport is renewed only for a period specified by the Court in the Order and in case no period is specified, the same is issued only for a period of one year.

5 It is further stated that since the Passport Rules, 1980 provide that the period of validity of passport shall be ten years, it is requested that no objection may be granted to the accused for renewal of the full validity passport for a period of ten years.

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

accused Sanjay Gupta was admitted to bail vide order dated 10.03.2023 subject to the condition that he shall surrender his passport with the Investigating Officer of this case and shall not leave the country without permission of the Court.

7 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.

8 As per GSR 570(E), the passport to be issued to an applicant 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.

9 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 permit the issuance of the passport for a period of more than one year and going by Rule 12 of the Passport Rules, 1980, since the validity of an ordinary passport cannot be beyond a period of 10 years, the prayer of the applicant/accused to permit for renewal of her passport for a period of 10 years can be allowed.

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

11 The applicant is directed to deposit his passport in the court upon receiving the same after renewal in terms of the order dated 10.03.2023.

12 Copy of this order be given dasti to the accused and to the ED, as prayed. Application stands disposed off accordingly.

(ANKIT SINGLA)
SPECIAL JUDGE-02, CBI (PC ACT)
RADC, NEW DELHI/08.11.2024