



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3548]

THURSDAY, THE TWENTY FIRST DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 14517/2026

Between:

1. VEMULA MOUNIKA, D/O KOTESWARARAO, AGED ABOUT 26 YEARS, R/O RADHAKRISHNA NAGAR, KOTHURU, NELLORE CITY, ANDHRA PRADESH.

...PETITIONER

AND

1. THE UNION OF INDIA, REP BY ITS MINISTRY OF EXTERNAL AFFAIRS, SOUTH BLOCK, SECRETARIAT BUILDING, RAISINA HILL, NEW DELHI. 110 001

2. THE JOINT SECRETARY PSP AND CHIEF PASSPORT OFFICER, PASSPORT SEVA PROGRAMME DIVISION, MINISTRY OF EXTERNAL AFFAIRS, ROOM NO 27, PATIALA HOUSE, TILAK MARG, NEW DELHI. 110 001

3. THE REGIONAL PASSPORT OFFICER, REGIONAL PASSPORT OFFICE HYDERABAD, D.NO.8-2-215 TO 219, KUMMARGUDA, SECUNDERABAD, TELANGANA - 500 003

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to may be pleased to issue a Writ of Mandamus declaring the action of the 3rd Respondent in not considering the Petitioners application vide no. HY3066284971626 for issuing a fresh passport as illegal, arbitrary, and in violation of Articles 14, 19 and 21 of the Constitution of India and

consequently direct the Respondent to complete the process of the passport application filed by the Petitioner, by considering the application vide no. HY3066284971626, in accordance with the law and to pass such

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased may be pleased to Direct the Respondent No 3rd Respondent to consider the Petitioner's application vide no. HY3066284971626 for issuing of Passport forthwith, pending disposal of the Writ Petition and pass such

Counsel for the Petitioner:

1. CHAITANYA PALISETTY

Counsel for the Respondent(S):

1.

The Court made the following:

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**WRIT PETITION NO: 14517/2026****ORDER:**

Heard Sri Chaitanya Palisetty, learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

2. The writ petition is moved by the petitioner seeking a Writ of Mandamus declaring the action of the 3rd respondent in not considering the petitioner's application *vide* application No.HY3066284971626, for issuing fresh passport, being illegal, violative of Articles 14,19 and 21 of the Constitution of India.

3. The facts, which are stemmed from the affidavit filed in support of the writ petition, are as follows:

(a) Learned counsel for the petitioner placed on record that the petitioner applied for passport *vide* application No. HY3066284971626 dated 09.01.2026 and appeared before the passport authorities. Along with the application, all the required documents were submitted and the original documents were verified by the interviewing officer and in spite of the said compliance, the passport is not issued.

(b) On 17.03.2026, the petitioner received an objection letter from the 3rd respondent addressing that a criminal case is pending against the petitioner in the Court and sought clarification and to obtain a No Objection Certificate (NOC) from the competent Court.

4. Learned counsel for the petitioner would submit that a criminal case is pending on the file the learned I Additional Judicial Magistrate of First Class, Kovvur, under Sections 420, 409 r/w 109 I.P.C in C.C.No.665 of 2023, wherein the petitioner is arrayed as accused No.2. Learned counsel would submit that the inaction on the part of the 3rd respondent in processing the application for issuance of the passport is nothing but depriving from the right accrued to the petitioner under Article 21 of the Constitution of India, which is no more *res integra* and the Hon'ble Apex Court time and again under scored that Right to Travel also embedded in Article 21 of the Constitution of India.

5. Learned counsel would submit that mere pendency of the criminal case cannot be treated as an absolute bar for issuance of the passport and in the present case, the learned Magistrate has not taken cognizance of the case and in view of the said fact, the 3rd respondent cannot deny issuance of passport to the petitioner.

6. In support of his contention, learned counsel relied upon the judgment of the Hon'ble Apex Court in **Satwant Singh Sawhney v. D.Ramarathnam and others**¹ wherein it is held that the Right to Travel is indeed a fundamental right and the same cannot be arbitrarily and illegally denied by the State and that no person can be deprived of his Right to Travel except according to procedure established by law.

¹ AIR 1967 SC 1836

7. In **Sumit Mehta v. State of NCT of Delhi**², the Hon'ble Apex Court at para No.13 observed as follows:

"The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India."

8. In **Satish Chandra Verma v. Union of India (UOI) and others**³, the Hon'ble Apex Court at para No.5 observed as follows:

"The right to travel abroad is an important basic human right for it nourishes independent and self-determining creative character of the individual, not only by extending his freedoms of action, but also by extending the scope of his experience. The right also extends to private life; marriage, family and friendship which are the basic humanities which can be affected through refusal of freedom to go abroad and this freedom is a genuine human right."

9. In **Maneka Gandhi vs. Union of India**⁴, the Hon'ble Apex Court held that no person can be deprived of his right to go abroad unless there is a law enabling the State to do so and such law contains fair, reasonable and just procedure. The relevant Para No.5 is extracted as under:

"5. Thus, no person can be deprived of his right to, go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article 21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passport may be issued or refused or canceled or impounded and also prescribes a procedure for doing so, but the question is whether

² 2013(15) SCC 570

³ MANU/SC/0826/2019

⁴ 1978 (1) SCC 248

that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law. Therefore, such a right to travel abroad cannot be deprived except by just, fair and reasonable procedure."

10. This Court in similar circumstances in W.P.No.13133 of 2025 in a case of **Ravi Ramesh v. Union of India**⁵ by Order dated 09.05.2025, was pleased to held that in the case at hand the, jurisdictional Court has not taken any cognizance and mere pendency of crime is not a bar for renewing/re-issuing the passport.

11. The learned counsel further relied upon the judgment of the Hon'ble Supreme Court in **Vagala Venkata Siva Kumar v. The State of Andhra Pradesh** on 2 February, 2021; Criminal Revision Case Nos.475 and 478 of 2020, this Court *vide* para No.14 has observed that:

Para 14: 14. As per Section 6 (2) (f) of the Passport Act, 1967, the passport authority shall refuse to issue passport or travel document for visiting any foreign country, if criminal proceedings are pending against the applicant in India. A bare reading of the Passport Act, 1967 reveals that there is no absolute bar for Renewal of passport. As per Section 6 (2) (f) of the Passport Act, 1967 when the passport authority refuses to grant passport, the Court while exercising its discretion has to look at the facts and circumstances of each case. Mere pendency of criminal case cannot be a reason to refuse to grant passport.

⁵ 2015 Live Law AP 88

12. In ***Akhilesh v. State of Kerala and Others***⁶ it was held that the Court where the case is presently pending has to decide whether the applicant is entitled to get a passport as well as the period for which he is entitled to hold the passport and the Court has also to keep in mind the fact that pendency of a criminal case shall not stand in the way or cause hindrance to decide the future of an applicant.

13. It is further submitted by the learned counsel that in a similar occasion, this Court in WRIT PETITION Nos. 1392 & 2896 of 2023 & 38869 of 2022 has observed that:

105. In the result, the Court passes the following order, disposing of all the writ petitions in the following terms:

(a) The prayer of writ petitioners seeking direction to the respondent passport authorities to renew the passport without insisting on compliance with the notification dated 25.08.1993, notwithstanding the pendency of the criminal case in the Court concerned for trial, is rejected.

(b) A direction is issued to the respondents No.1 to 3 to consider the cases of the petitioners covered under clause (f) of Section 6 (2) of the Passports Act, for renewal of the passport, on production of the order from the concerned Court where the criminal case is pending for trial.

(c) On production of an order from the concerned Court, as aforesaid, the application for renewal shall not be rejected on the ground of mere pendency of the criminal case in Court, but subject to compliance of other requirements under notification dated 25.08.1993.

(d) If the petitioner approaches the concerned Court where the criminal case is pending trial, for an order, seeking No Objection Certificate / Permission to depart from India or to continue to his departing from India, with respect to those petitioners, who already departed under the passport, the renewal of which is requested, their applications would be considered by the concerned Court, as per law, taking into account the relevant RNT, J WP Nos.1392 of 2023 & 2 ors. 52 facts and circumstances of their respective cases and appropriate orders shall be passed according to law.

⁶ (2021 (2) KHC 752)

(e) The judgment in the case of Vangala Kasturi Rangacharyulu (*supra*) by the Hon'ble Apex Court, shall be considered in the correct perspective, as discussed in this judgment, by the concerned Court.

(f) If there is an additional ground, under any other clause of Section 6 (2), i.e., other than clause (f), the same shall be considered independent of the directions issued in these writ petitions.

(g) The petitioner of W.P.No.2896 of 2023 is granted liberty to approach the Court concerned afresh.

14. This Court, upon hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Home representing the State, is convinced that the pendency of the criminal case and where no cognizance is taken by the learned Magistrate, the State/respondent No.3 cannot deny for issuance of passport to the petitioner.

15. Admittedly, there is no denial regarding making of application and only ground where the request was denied. A case is pending before the competent Court and pendency of the criminal case is a bar for issuance of passport and as per the proceedings of the respondents dated 17.03.2026, the petitioner was asked to submit No Objection Certificate from the competent Court. The Government of India has issued guidelines *vide* GSR 570(E), dated 25.08.1993 for issuance of passport to applicants against whom criminal cases are pending before the Court of law and No Objection order would be required from the concerned Court. Later part, the Government of India has issued clarification through an Office Memorandum No.VI/401/1/1/5/2019, dated 10.10.2019, in which it is clarified that a mere filing of F.I.Rs and the cases under investigation do not come under the

purview of Section 6(2)(f) of the Passport Act, 1967 (hereinafter for short the 'Act'). Section 6(2)(f) of the Act is relevant is extracted hereunder:

"6. Refusal of passports, travel documents. etc.

(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: -

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

16. It is to be noted that in **Vangala Kasturi Rangacharyulu v. CBI**⁷, the Hon'ble Apex Court, while answering Section 6(2)(f) of the Act, has observed that pendency of criminal appeal is not an automatic bar for issuance of a passport, and that Article 21 of the Constitution of India must be balanced with the necessity of securing presence of the accused. In furtherance of the said observation, this Court directs the respondents to issue passport.

17. Resultantly, in view of legion of pronouncements by the Hon'ble Supreme Court and this Court, the respondents are directed to consider and pass appropriate orders on the application of the petitioner *vide* No. HY3066284971626 dated 09.01.2026, for issuance of passport to the petitioner, in accordance with law, within a period of two (2) weeks from receipt of a copy of this order.

⁷ 2021 SCC OnLine SC 3549 = 2020 CriLJ (SC) 572

18. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

As a sequel thereto, interlocutory applications pending, if any, shall stand closed.

JUSTICE TUHIN KUMAR GEDELA

Dated 21.05.2026
KBN/KA

THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA

WRIT PETITION NO: 14517/2026

Dated 21.05.2026
KBN/KA