



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 318 of 2026

Sek. Abadul Majid @ Sk. Abdul Mozid

..... *Petitioner(s)*

Mr. Biswajeet Pattnaik, Adv.

-Versus-

State of Odisha

..... *Opposite Party(s)*

Mr. Amitabh Pradhan, ASC

CORAM:

DR. JUSTICE SANJEEB K PANIGRAHI

ORDER

25.02.2026

Order No.

03.

1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the parties.
3. The Petitioner is aggrieved by the order dated 13.08.2025 passed by the learned J.M.F.C., Dhamnagar in G.R. Case No.1397 of 2011 whereby his prayer for grant of no objection for applying the Passport has been rejected.
4. Learned counsel for the Petitioner submits that the application of the petitioner was heard and the J.M.F.C., Dhamnagar in G.R. Case No.1397 of 2011 has turned down the application. The Petitioner is aggrieved by the same and has filed the present application.



5. The right to obtain and hold a passport is not a mere statutory privilege but forms an intrinsic component of the guarantee of personal liberty enshrined under Article 21 of the Constitution of India. The constitutional amplitude of this right has been authoritatively elucidated by the Supreme Court in *Maneka Gandhi v. Union of India*¹, wherein it was held that the freedom to travel abroad constitutes a significant facet of personal liberty and that any restriction on such liberty must satisfy the constitutional mandate of fairness, reasonableness and procedural fairness. Personal liberty, as judicially understood, cannot be curtailed on the basis of mere apprehensions, conjectures or administrative convenience.
6. Viewed through this constitutional prism, the mere pendency of a criminal case, by itself, cannot furnish a legitimate ground to deny or restrict an individual's right to possess a passport. Criminal proceedings do not operate as a civil death of the accused nor do they automatically eclipse the fundamental liberties guaranteed under the Constitution. Any curtailment of such liberty must rest on a demonstrable necessity sanctioned by law and justified by compelling circumstances. The possession of a passport, therefore, cannot be presumptively equated with an intention to travel abroad, much less to a particular destination

¹ 1978 SCR (2) 621



such as Saudi Arabia in the present case, nor can it be construed as indicative of a design to evade the due process of law. If this Court accepts such a proposition, it would amount to elevate speculative apprehension into a legal presumption, thereby impermissibly trenching upon the constitutionally protected domain of individual liberty. In this case, the petitioner wishes to travel Saudi Arabia, it is incumbent upon him to seek prior permission from the competent court. The present request is merely for the issuance of a 'No Objection Certificate' for the purpose of obtaining or renewing the passport, and not for the purpose of immediate travel outside the country.

7. The Hon'ble Supreme Court, in *Maneka Gandhi vs Union of India(supra)*, has held that the right to hold a passport and travel is a facet of fundamental right and an individual cannot be prevented from traveling abroad unless there exists a law that authorizes the State to impose such a restriction, and that law must provide a procedure that is fair, reasonable, and just. Paragraph 5 of this judgment is pertinent, and it is quoted below.

"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 Passports, Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing



so, but the question is whether 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."

Similar view has been echoed by the Telangana High Court in ***Venkata Siva Kumar Yadhanapudi vs. Union of India***², wherein it has been held that pendency of a criminal case could not be a ground to deny passport facilities to petitioner since petitioner's right to personal liberty not only included petitioner's right to travel abroad, but also petitioner's right to possess or hold a passport.

8. It is also relevant to note that Orissa High Court in ***Ashok Kumar Sipani vs. Union of India and another***³ held thus:-

"It would be absurd to hold that pendency of criminal case, as referred to in Section-6, would have a different consequence than Section-10. Evidently, only the action to be taken would be different, as both the provisions operate at different stages. However, the spirit behind the two provisions remains the same, i.e., effect of pendency of a criminal case on renewal of passport and on an existing passport. That apart, there is no absolute bar in the Act for issuing and renewing the passport on the ground of pendency of criminal case. As already stated, the provision under Section-10(3) is not mandatory, but discretionary. So, if the provisions of the Act are read as a whole, it would imply that mere pendency of criminal case cannot, in all cases, lead to impounding of the Passport."

² 2024 SCC OnLine TS 402

³ W.P (C) No. 30881 of 2022



9. The legal conception of a passport, in contemporary constitutional jurisprudence, cannot be confined to the narrow contours of a statutory document issued under the Passports Act, 1967. Rather, it represents a juridical instrument that facilitates the exercise of personal mobility and autonomy, values which lie at the heart of the guarantee of personal liberty under Article 21 of the Constitution of India. The constitutional transformation ushered in by the celebrated decision of the Hon'ble Supreme Court in *Maneka Gandhi v. Union of India* firmly established that the freedom of movement, including the freedom to travel beyond national boundaries, forms an integral dimension of personal liberty and cannot be curtailed except through a procedure that is just, fair and reasonable.
10. In our existing constitutional framework, the possession of a passport assumes significance not merely as a travel document but as an enabling condition for the effective exercise of the liberty of movement. The pendency of a criminal proceeding, by itself, does not operate as a legal disqualification that strips a citizen of this entitlement. Criminal law, unless expressly provided otherwise by statute or by a judicial order founded upon compelling necessity, does not contemplate the suspension of ordinary civil liberties merely because a person stands accused of an offence. To hold that the mere existence of a pending



investigation or trial would justify denial of the right to obtain or possess a passport would be to convert the presumption of innocence into a presumption of restraint. Such an approach would be fundamentally inconsistent with the constitutional commitment to individual liberty and the rule of law, which requires that restrictions upon fundamental freedoms must rest on demonstrable necessity rather than speculative apprehension.

11. Upon a careful consideration of the materials on record, this Court finds that no legal impediment that would justify the denial of a passport to the petitioner. It is a cardinal postulate of criminal jurisprudence that every person accused of an offence is cloaked with the presumption of innocence until his guilt is established through a process of law. This foundational principle, which lies at the heart of the criminal justice system, ensures that the mere pendency of a criminal proceeding does not operate to stigmatize the accused or to curtail his civil liberties in the absence of a judicial determination of guilt.

12. In that view of the matter, the existence of a pending case cannot, by itself, furnish a legitimate basis for drawing adverse inferences against the petitioner or for restricting his lawful entitlements. Courts must remain mindful that criminal prosecution, until culminating in conviction, does not extinguish the ordinary



incidents of citizenship nor does it authorize the imposition of collateral disabilities unsupported by law.

13. In the considered opinion of this Court, the impugned order dated 13.08.2025 passed by the learned J.M.F.C., Dhamnagar in G.R. Case No.1397 of 2011 does not withstand judicial scrutiny and is accordingly set aside. The learned trial Court is directed to reconsider the matter afresh and pass appropriate orders in accordance with law so as to facilitate the issuance of a passport to the petitioner. It shall, however, be open to the learned Court to impose such reasonable conditions as may be deemed necessary and appropriate to ensure the petitioner's continued participation in the trial and to secure his presence as and when required during the pendency of the proceeding. The petitioner is at liberty to move a fresh application before the learned trial Court reiterating his prayer. If such application is moved by the petitioner before the trial Court, necessary orders be passed in that regard by the learned trial Court.

14. With the aforementioned observation, the CRLMC is disposed of.

(Dr. Sanjeeb K Panigrahi)
Judge