

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Writ Petition No. 499/2026

Aadil Khan S/o Khan Mohd. Khan, Aged About 21 Years, R/o
Chhapari Khurd, Tehsil Deedwana, Dist. Deedwana ,kuchaman

-----Petitioner

Versus

State Of Rajasthan, Through Public Prosecutor

-----Respondent

For Petitioner(s) : Mr. Yusuf Khan

For Respondent(s) : Mr. NS Chandawat, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

09/02/2026

1. The petitioner is facing trial for the alleged commission of an offence punishable under Sections 8/21 of the NDPS Act, in Session Case No. 23/2025, which is presently pending before the learned Additional Sessions Judge, Didwana. During the pendency of the trial, the petitioner moved an application before the learned trial Court seeking permission for issuance/renewal of his passport and for leave to travel abroad on certain stated grounds. The learned trial Court, upon consideration of the said application, allowed the same and granted liberty to the petitioner to apply for issuance/renewal of his passport and to travel abroad, subject, however, to certain conditions. One of the conditions so imposed, being Condition No. 11 in the impugned order, mandates that the petitioner shall deposit a Fixed Deposit Receipt (FDR) in the sum of Rs. 2,00,000/- before the learned trial Court, coupled with an

undertaking that in the event of breach of any of the bond conditions, the said amount shall stand forfeited. The petitioner, while not disputing the permission so granted, feels aggrieved by the aforesaid condition requiring deposit of the FDR and has thus invoked the jurisdiction of this Court to assail the legality and propriety of Condition No. 11 incorporated in the order under challenge.

2. Heard learned counsel for the parties and gone through material of the case.

3. This Court has dealt with the similar issue in the case of **Balkaran Singh v. State of Rajasthan [S.B. Criminal Misc(Pet.) No. 7824/2022]** dated **21.11.2022**. The relevant paragraphs of the order are being reproduced herein below:-

"It is significant to note here that the Passports Act, 1967 does not confer absolute power upon a citizen to obtain passport. Section 6(1) & (2) of the Act prescribe certain conditions/eventualities when the passport authority is required to turn down request to make an endorsement or issue passport which includes a condition when an applicant is an accused in a criminal case. Relevant extract of section 6(2) is reproduced hereinbelow:-

"(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."

To diminish the rigour of sub-section (2)(f) of section 6, the Central Government has issued a notification dated 28.06.1993 which enables the passport authority to issue passport even in the case of a person covered by clause (f) of sub-section (2) of section 6 of the Act. The notification dated 28.06.1993 is reproduced as under in its entirety:-

"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 14" April 1976, the Central Government, being of the opinion that it is necessary ni 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 sub-section (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 afresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;
(d) the said citizen shall given 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."

The aforementioned notification provides that upon production of an order from the Court, an application for grant of passport shall be considered. In case the order of the Court does not disclose the period for which the passport is to be issued, then, the passport authority will issue the passport for a period of one year only or as the case may be.

An accused desirous of seeking permission or order of getting exemption from rigour of clause (f) of section 6(2) of the Act in terms of the notification dated 28.06.1993 may or may not specify the period of stay and place of visit, but in an appropriate case, Court can still consider his request and pass an order in this regard. Court's duty in dealing with such 'application' is to see the nature of offence and the necessity of travel. An order in terms of the notification dated 28.06.1993 cannot be passed as a matter of course/or in routine.

Notification dated 28.06.1993 requires the Court to grant permission to travel abroad and on the basis of such order, the passport is required to be issued. If such order

does not specify the period of travel, passport can be issued for 1 year. Petitioner has stated in his application that his children reside in Australia and Canada and he is supposed to visit them for social gatherings and family get-togethers. True it is that he has not given specific date or period of travel but the trial Court should have passed order of issuing passport. Passing of an order in terms of the Notification dated 28.06.1993 is slightly different than grant of permission to travel abroad.

In considered opinion of this Court the trial Court has therefore, erred in rejecting petitioner's application for issuing passport, which was in essence an application for order in terms of notification dated 28.06.1993. The order of the trial Court is thus, liable to be set aside and thus this Court persuaded to quash the same.

It is noteworthy that the petitioner is of 72 years old man and the pendency of a criminal case is not an impediment for the court for issuance of passport in these circumstances, the passport authority should not refuse to issue passport to the petitioner in the face of sub-section (e) of section 6 of the Passports Act. Clause (e) provides for refusal of passport where a person has been sentenced with imprisonment for a period not below two years within the five years preceding his application for passport under section 5 of the Passports Act. The petitioner has not been sentenced, hence he has not acquired any disqualification.

In light of the discussion made hereinabove, the instant petition is disposed of with a liberty to the petitioner to make an application afresh before the competent authority, following the procedure prescribed under section 5 of the Passports Act. If the petitioner prefers such an application, the passport authority shall consider the same in light of the relevant provisions of Passports Act as well as of the instant order without being influenced by the order passed by the trial Court on 13.07.2022.

The present petition is disposed of accordingly. The stay application also stands disposed of."

4. The similar issue has also been dealt by the Coordinate bench in the case of **Mohammed Sadeeqe v. State of Rajasthan [S.B. Criminal Misc(Pet.) No. 5848/2024]** dated **02.09.2024**. For ready reference, the relevant paragraphs of the order are being reproduced herein below:-

"4. I am of the view that the petitioner, though an accused, but still has a fundamental right to personal liberty, which includes the right to travel and participate in significant family events. Denying him the opportunity to attend his daughter's engagement ceremony would cause irreparable emotional harm and infringe upon his right to maintain familial bonds. No doubt, if he is found to be a flight risk, restrictions can be imposed by the trial court to ensure his return.

5. It appears that the petitioner has no intention of evading the judicial process. He is willing to comply with all conditions to be set by the trial court, including furnishing a personal bond, undertaking to return to India by a specified date, and submitting relevant travel documents such as air tickets. There is thus no reasonable apprehension that he will misuse the liberty granted to him.

6. Moreover, in the present case, out of the total 27 witnesses, the statement of only one witness has been recorded, indicating that the trial is moving at a slow pace. The conclusion of the trial will take an unduly long time, and it is unreasonable to deny the permission for daughter's engagement indefinitely based on the mere pendency of the trial.

7. The petitioner's brief travel for the engagement ceremony of his daughter will not adversely impact the ongoing trial. The trial court shall ensure that dates of his travel do not conflict with any scheduled court proceedings, and the petitioner's presence can be ensured by providing his updated contact details.

8. The suggestion that the petitioner can attend the ceremony virtually seems unjustified and disregards the cultural and emotional significance of such an event. Virtual presence cannot substitute the physical presence of a father at his daughter's engagement, which is a once-in-a-lifetime event for both father and daughter.

9. In the premise, the petitioner is granted liberty to file a fresh application seeking permission to travel abroad for attending the engagement ceremony of his daughter, by providing details of the date of departure, arrival in India, proof of air tickets, and other relevant documents. Upon the petitioner's furnishing of the usual undertaking, the trial court shall grant the necessary permission subject to other reasonable conditions which it may deem fit to impose.

10. The petition is disposed of accordingly.

11. All pending application(s), if any, shall also stand disposed of."

5. In **Mahesh Kumar Agarwal v. Union of India & Ors.**

[Civil Appeal No. 15096 of 2025 arising out of SLP (Civil) No. 17769 of 2025], decided on 19.12.2025, Hon'ble the Supreme Court has authoritatively held that the right to hold a passport is an intrinsic facet of the right to personal liberty guaranteed under Article 21 of the Constitution of India, and that any denial thereof, in the absence of just, fair and reasonable procedure, amounts to an unreasonable restriction upon the liberty of the appellant. For the sake of ready reference and proper appreciation, the relevant paragraphs of the said judgment are reproduced hereinbelow:

"20. It must also be noted that denial of renewal of a passport does not operate in a vacuum. This Court has repeatedly held in a catena of Judgments that the right to travel abroad and the right to hold a passport are facets of the right to personal liberty Under Article 21 of the Constitution of India. Any restriction on that right must be fair, just and reasonable, and must bear a rational nexus with a legitimate purpose.

21. The legitimate purpose behind Section 6(2)(f) and Section 10(3)(e) is to ensure that a person facing criminal proceedings remains amenable to the jurisdiction of the criminal court. That purpose is fully served in the present case by the conditions imposed by the NIA Court, Ranchi, and the Delhi High Court, which require the Appellant to seek prior permission before any foreign travel and, in the NIA case, to re-deposit the passport immediately after renewal. To add to these safeguards an indefinite denial of even a renewed passport, when both criminal courts have consciously permitted renewal, would be a disproportionate and unreasonable restriction on the Appellant's liberty."

6. Having bestowed thoughtful consideration to the nature of the condition imposed in this particular matter, this Court is of the view that the requirement of depositing an FDR of Rs. 2,00,000/- warrants modification. The object of imposing conditions while permitting an accused to travel abroad during the pendency of

trial is to secure his presence and to ensure that the process of law is not frustrated. Such conditions must be effective, yet not unnecessarily onerous. In the considered opinion of this Court, the ends of justice would be adequately safeguarded by substituting the condition of cash security with a more stringent and enforceable bond mechanism.

7. In view of the above discussion, the instant petition is partly allowed in the following terms:-

(a) It is directed that in place of depositing an FDR of Rs. 2,00,000/-, the petitioner shall furnish a personal bond in the sum of Rs. 10,00,000/- before the learned trial Court, along with a specific undertaking that in the event of breach of any of the conditions governing his travel abroad, the said bond shall stand forfeited and the amount shall be recoverable from his properties situated within India, in accordance with law.

(b) Further, the mother of the petitioner, who is stated to be residing in the same village, shall furnish a surety bond in the sum of Rs. 10,00,000/- with a categorical undertaking that in case the petitioner fails to adhere to the conditions imposed by the learned trial Court while permitting him to travel abroad, the surety amount shall also stand forfeited and shall be liable to be recovered from her properties in accordance with law.

8. Accordingly, the petition is partly allowed. The impugned order is modified to the extent of Condition No. 11, which shall stand substituted in the aforesaid terms. Upon furnishing of the personal bond and surety bond as directed hereinabove, the

requirement of depositing the FDR of Rs. 2,00,000/- shall stand set aside. The remaining part of the impugned order shall remain unaltered.

9. The stay petition also stands disposed of.

(FARJAND ALI),J

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