

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

S.B. Criminal Writ Petition No. 1709/2026

Mohammad Hanif Khan S/o Abdul Jabaar, Aged About 34 Years,
Khan Mohalla Kuchaman City Nagour Rajasthan

-----Petitioner

Versus

1. State Of Rajasthan, Through Pp
2. Union Of India, Through The Secretary Ministry Of
External Affairs New Delhi
3. Regional Passport Office, Through The Regional Passport
Officer J 14 Jhalana Institutional Area Jhalana Doongri
Jaipur 302051 Rajasthan

-----Respondents

For Petitioner(s)	:	Mr. Nishant Bora
For Respondent(s)	:	Mr. Surendra Bishnoi, AGA Mr. Mohit Choudhary

HON'BLE MR. JUSTICE FARJAND ALI

Order

20/04/2026

1. The instant Criminal Writ Petition under Article 226 of the Constitution of India has been instituted by the petitioner, being aggrieved by the order dated 05.01.2026 passed by the learned Additional Chief Judicial Magistrate, Kuchaman City in Case No. 541/2022, whereby permission for renewal of the passport was granted only for a limited period of one year.

2. The brief facts of the case, in a nutshell, are that an FIR dated 21.04.2021 was registered against the petitioner alleging offences under Sections 420 and 120B IPC and Sections 3 and 4 of the RPGO; however, vide order dated 18.11.2025, the learned

Trial Court found no prima facie case under the IPC provisions and confined the proceedings to the bailable offences under the RPGO. The petitioner, engaged in a travel business requiring international mobility, contends that the restricted renewal period is arbitrary, commercially unviable, and prejudicial to his right to livelihood, thus necessitating the present writ petition.

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. 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."

5. In an identical matter, the Coordinate Bench of this Court has elaborately discussed the issue in the case of **Abhayjeet Singh Vs. State of Rajasthan** (S.B. CRLMP No.5870/2024) decided on 02.09.2024. This Court would like to follow the same ratio so as to maintain judicial discipline and consistency. The order above reads as under:-

"8. First and foremost, for ready reference relevant extract of Rule 12 of the Passport Rules, 1980, is as below:

"12. Duration of passports or travel documents. –

(1) An ordinary passport for persons other than children below the age of 15 years, containing thirty-six pages or sixty pages shall be in force for a period of 10 years from the date of its issue...."

9. A plain reading of the aforementioned rule clearly establishes that a citizen is entitled to be issued a passport with a minimum validity of 10 years.

10. Trite law it is that right to travel is intrinsically contained in the right to earn a livelihood. Courts have consistently

upheld this as a fundamental right, subject of course to reasonable restrictions. The petitioner, who is primarily a farmer cultivating 'Kinnu' in his orchards, exports some of his produce to Saudi Arabia and has established business relations there. He seeks to travel abroad to further these business interests.

11. It is also acknowledged position that a short-term passport validity poses practical difficulties in obtaining visas from certain countries. Whether the passport is valid for one year or ten years does not materially affect the allegations against the petitioner regarding potential absconding. Thus the renewal of his passport for the full 10-year duration would not in any case prejudice the respondent or the complainant.

12. Moreover, the petitioner has not been convicted of any offense; he is merely facing charges. Under the law, he is presumed innocent until proven guilty. The restrictions imposed on his passport validity appear to pre-emptively punish the petitioner, undermining the principle of presumption of innocence enshrined in Article 21 of the Constitution of India. Denying a 10-year passport validity without cogent reasons amounts to an arbitrary restriction on this right and does not align with the principles of justice, equity, and fairness.

13. There is no substantive evidence or reasonable apprehension expressed or presented before this Court that the petitioner poses a flight risk or that he intends to abscond from the legal proceedings. His established business ties in India, particularly in agriculture, further negate the possibility of him absconding. Not only that, it transpires that he has his parents also residing in India with him who are his dependents.

14. As an agriculturist involved in the export of 'Kinnu' produce to Saudi Arabia, the petitioner's ability to travel internationally, be it Saudi Arabia or any other country, is directly linked to his livelihood and economic stability. There is no gainsaying that restriction of a one-year passport validity places an undue burden on his business operations, affecting not only his income but also the livelihoods of those employed under him.

15. The Passport Act, 1967, and the Rules framed thereunder do not provide for arbitrary reduction in the validity period of a passport for individuals not convicted of any offense. The issuance of a one-year passport, in this

case, appears to lack any statutory backing and thus, contravenes the provisions of the Passport Rules.

16. Requiring the petitioner to frequently renew his passport every year not only places an undue burden on him but also on judicial and administrative resources, leading to unnecessary litigation and wastage of public funds and time.

17. As regards the pending proceedings against the petitioner, the issuance of a 10-year passport will not impede the ongoing criminal proceedings in any way. The petitioner has demonstrated his commitment to attend court hearings and comply with all court directives. Proper conditions can be imposed to ensure his appearance, such as requiring prior court permission for international travel."

6. In this view of the matter, the instant petition is disposed of in the following terms:-

a. The passport of the petitioner shall be issued/renewed with a validity of ten years.

b. The condition imposed vide order dated 05.01.2026 passed by the learned Additional Chief Judicial Magistrate, Kuchaman City is modified to the extent that the passport of the petitioner shall be issued/renewed for 10 years instead of 1 year. However, it is made clear that whenever the learned Trial Court requires his personal presence, he shall be informed to this effect through his lawyer and upon such intimation, the petitioner shall appear before the Court to assist in the due and expeditious conduct of the trial.

c. The pendency of the criminal case arising out of FIR No.179/2019 registered at Police Station

Sardarpura, District Jodhpur City West shall not operate as an impediment to the issuance/renewal of passport to the petitioner.

d. In the event the petitioner intends to travel abroad, he shall move an appropriate application before the learned Trial Court, duly informing and seeking prior permission for the said purpose. Needless to observe, the learned Trial Court shall consider and decide such application in accordance with law, bearing in mind that the very object of permitting renewal of the passport was to facilitate the petitioner's travel abroad.

7. The stay petition and all pending applications also stands disposed of.

(FARJAND ALI),J