

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

S.B. Criminal Writ Petition No.1940/2023

Trivikram Singh Rathore S/o Shri Dushyant Singh Rathore, Aged  
About 46 Years, R/o Nayala House, Moti Doongri Road,  
Jaipur(Rajasthan.)

-----Petitioner

Versus

1. State Of Rajasthan, Through P.P.
2. The Secretary, Ministry Of External Affairs, Government  
Of India, New Delhi.
3. The Regional Passport Officer, Regional Passport Office,  
J-14, Jhalana Institutional Area, Jhalana Dungari,  
Jaipur(Rajasthan).

-----Respondents

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For Petitioner(s) : None present

For Respondent(s) : Mr. Jitendra Singh Rathore, PP

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**JUSTICE ANOOP KUMAR DHAND**

**Order**

**02/05/2026**

Reportable

The right to travel abroad is an integral facet of personal liberty guaranteed under Article 21 of the Constitution of India. It is not a mere privilege conferred upon by the State, but also a fundamental right inherent in every citizen. This right, though not absolute, can be curtailed only by procedure established by law and such procedure must be just, fair and reasonable.

A passport is a singular and indispensable document that enables a citizen to cross international boundaries and seek entry into foreign territory. Under the established principles of

International Law, no sovereign State permits the entry of an alien without a valid passport or equivalent travel document. Consequently, in the absence of a valid passport, a citizen is rendered as an alien in the eyes of a foreign State, having no lawful authority to enter or remain within its borders.

Therefore, any arbitrary or unlawful denial of a passport amounts to deprivation of the citizen's fundamental right to travel abroad under Article 21 of the Constitution. The issuance of a passport may be refused or impounded only on the grounds that have been expressly provided under the Passports Act, 1967 (for short, 'the Act of 1967') and such grounds must also withstand constitutional scrutiny.

The Legal Maxim -*Ubi jus ibi remedium* means — "Where there is a right, there must be a remedy, which correctly interprets that the right to travel abroad would be illusory without the means, i.e., a passport, to exercise it."

1. A person living in India has a fundamental right to travel abroad under Article 21 of the Constitution of India and he/she cannot be denied issuance of passport on the grounds, which are not tenable in the eyes of law. Factually, a passport is a necessary document for travelling abroad and by withholding the passport, the Government can effectively deprive a person of his/her right. In the International Law, it is now well-settled that no State/Central Government permits an alien to enter into its territory without a valid passport.

2. In **Satwant Singh Sawhney Versus D. Ramarathnam and Ors.** reported in **1967 (3) SCR 525**, the Hon'ble Apex Court highlighted the importance of a valid passport, as it is never

possible for a person residing in India to visit foreign countries or to return without the possession of a valid passport. The paragraph 7 of the judgment, being relevant is reproduced hereunder:

"7. As a result of international convention and usage among nations it is not possible for a person residing in India to visit foreign countries, with a few exceptions, without the possession of a passport. The Govt, of India has issued instructions to shipping and airline companies not to take on board passengers leaving India unless they possess valid passport. Under Section 8 of the Indian Passport Act, 1920, the Central Government may make rules requiring that persons enter into India shall be in possession of passport. In exercise of the powers conferred under Section 8 of the said Act rules were made by the Central Government. Under Rule 3 thereof, no person proceeding from any place outside India shall enter or attempt to enter India by water, land or air unless he is in possession of a valid passport conforming to the conditions prescribed in Rule 4, thereof. Under Section 4 of the said Act any such person may be arrested by an officer of police not below the prescribed rank; and under Rule 6 of the Rules any person who contravenes the said rules shall be punishable with imprisonment for a term which may extend to 3 months or with a fine or with both. Under Section 5 of the Act the Central Government is authorised by general or special order to direct the removal of any such person from India. The combined effect of the provisions of the Act and the rules made there under is that the executive instructions given by the Central Government to shipping and airlines companies and the insistence of foreign countries on the possession of a passport before an Indian is permitted to enter those countries make it abundantly clear that possession of passport, whatever may be its meaning or legal effect, is a necessary requisite for leaving India for traveling abroad. The argument that the Act does not impose the taking of a passport as a condition of exit from India, Therefore, it does not interfere with the right of a person to leave India, if we may say so, is rather hypertechnical and ignores the realities of the situation. Apart from the fact that possession of

passport is a necessary condition of travel in the international community, the prohibition against entry impliedly indirectly prevents the person from leaving India. The State in fact tells a person living in India "you can leave India at your pleasure without a passport, but you would not be allowed by foreign countries to enter them without it and you cannot also come back to India without it." No person in India can possibly travel on those conditions. Indeed it is impossible for him to do so. That apart, even that theoretical possibility of exit is expressly restricted by executive instructions and by refusal of foreign exchange. We have, Therefore, no hesitation to hold that an Indian passport is factually a necessary condition for travel abroad and without it no person residing in India can travel outside India."

3. As per our jurisprudence, every person is presumed to be innocent until proven guilty. The issue in the instant criminal writ which remains for consideration of this Court is "Whether renewal application of passport can be rejected by the authorities only on the ground that a criminal case is pending against the accused?" It is in this background that this issue is required to be decided in the instant petition.

4. The instant criminal writ petition has been preferred by the petitioner with the following prayer:

"It is, therefore, respectfully prayed that this writ petition may kindly be allowed, and the letter dated 05.01.2023 may kindly be quashed and set aside and the respondent no.2 and 3 may kindly be directed to renew the passport of the humble petitioner, in the interest of justice; and

Any other appropriate order which this Hon'ble court may deem fit, just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner."

5. By way of filing the instant petition, a challenge has been led to the impugned order dated 05.01.2023 passed by the Regional Passport Officer, Ministry of External Affairs, Jaipur by which the

application submitted by the petitioner seeking renewal of his passport Application No.JP1076861752422 has been rejected on a technical count that as per the Police report, an FIR has been registered against the petitioner.

6. As per the contents of the present petition, the petitioner is in possession of a valid passport, however, when the validity of the same expired, he submitted a passport application No. JP1076861752422 before the respondents, seeking renewal of the same. The aforesaid application of the petitioner has been rejected by the respondents vide impugned order dated 05.01.2023 on the basis of a Police report stating that an FIR No.86/2021 has been registered against the petitioner under Section 498-A and 406 IPC with the Police Station Mahila Thana, Jaipur City (East). It has been averred that the petitioner is a Hotelier by profession and he has to frequently travel abroad for the purpose of his business activities and for the same, a valid passport is required.

7. None present for the petitioner. Heard learned Public Prosecutor, who opposes the prayer made in the instant criminal writ petition. However, he is not in a position to controvert the averments made therein.

8. This Court opines that pendency of criminal case cannot be a ground to deny passport facilities including its renewal, to the petitioner since the his right to personal liberty not only includes his right to travel abroad but also his right to possess and hold a valid passport.

9. It is also relevant to note that the respondents cannot refuse the renewal of passport of the petitioner on the ground of

pendency of the aforesaid criminal case against the petitioner and the said action of the respondents is contrary to the procedure laid down under the Passports Act, 1967 and also the principles laid down by the Hon'ble Supreme Court in the case of **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation** reported in **2020 Cri LJ 572**.

10. It is also relevant to note that the Hon'ble Apex Court in **Vangala Kasturi Rangacharyulu** (supra) had an occasion to examine the provisions of the Act of 1967, in relation to pendency of criminal cases and held that refusal of a passport can be only in case where an applicant is convicted during the period of five (05) years immediately preceding the date of application for renewal, for an offence involving moral turpitude and was sentenced for imprisonment for not less than two years. Section 6(2)(f) relates to a situation where the applicant is facing trial in a criminal Court. The petitioner therein was convicted in a case for the offences punishable under Sections 420 IPC and also Section 13(2) read with Section 13(1) of the Prevention of Corruption Act, 1988, against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Hon'ble Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Hon'ble Apex Court held that the Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Hon'ble Apex Court directed the Passport Authority to issue the passport of the applicant, without raising objections relating to the pendency of

the aforesaid criminal appeal pending before the Hon'ble Apex Court.

11. The Hon'ble Apex Court in another judgment reported in **(2013) 15 SCC 570** in **Sumit Mehta v. State of NCT of Delhi** at para 13 observed as under:

"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."

12. The Hon'ble Apex Court in **Maneka Gandhi v. Union of India** reported in **(1978) 1 SCC 248**, 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. Para 5 of the said judgment is relevant and the same is extracted 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.

Therefore, such a right to travel abroad cannot be deprived except by just, fair and reasonable procedure.

13. The Division Bench of the Hon'ble Apex Court in another case in **Satish Chandra Verma v. Union of India (UOI)** reported in **2019 SCC OnLine SC 2048** dated 09.04.2019 observed at para 5 as under:

"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."

14. Referring to the aforesaid principle and also the principles laid down by the Apex Court in several other judgments, and considering the guidelines issued by the Union of India from time to time, the Division Bench of High Court of Punjab and Haryana at Chandigarh in **Noor Paul v. Union of India** reported in **2022 SCC OnLine P&H 1176** held that a right to travel abroad cannot be deprived except by just, fair and reasonable procedure.

15. In the judgment rendered by the Andhra Pradesh High Court in **Ganni Bhaskara Rao v. Union of India** reported in **AIR 2022 AP 108** in at paras 4, 5 and 6, observed as under:

"4. This Court after hearing both the learned counsel notices that Hon'ble Supreme Court of India, in Criminal Appeal No. 1342 of 2017, was dealing with a person, who was convicted by the Court and his appeal is pending for decision in the Supreme Court. The conviction was however

stayed. In those circumstances also it was held that the passport authority cannot refuse the "renewal" of the passport.

5. This Court also holds that merely because a person is an accused in a case it cannot be said that he cannot "hold" or possess a passport. As per our jurisprudence every person is presumed innocent unless he is proven guilty. Therefore, the mere fact that a criminal case is pending against the person is not a ground to conclude that he cannot possess or hold a passport. Even under Section 10(d) of the Passports Act, the passport can be impounded only if the holder has been convicted of an offence involving "moral turpitude" to imprisonment of not less than two years. The use of the conjunction 'and' makes it clear that both the ingredients must be present. Every conviction is not a ground to impound the passport. If this is the situation post conviction, in the opinion of this Court, the pendency of a case/cases is not a ground to refuse, renewal or to demand the surrender of a passport.

6. The second issue here in this case is about the applicability of Section 6(2)(e) of the Passport Act. In the opinion of this Court that section applies to issuance of a fresh passport and not for renewal of a passport. It is also clear from GSR 570(E) which is the Notification relied upon by the learned counsel for the respondents and is referred to in the counter affidavit. This Notification clarifies the procedure to be followed under Section 6(2) of the Passport Act against a person whom the criminal cases are pending. This notification permits them to approach the Court and the Court can decide the period for which the passport is to be issued. This is clear from a reading of the Notification issued. Clause (a)(i) states if no period is prescribed by the Court the passport should be issued for one year. Clause (a)(ii) states if the order of the Court gives permission to travel abroad for less than a year but has not prescribed the validity period of the passport, then the passport should be for one year. Lastly, Clause (a)(iii) states if the order of the Court permits foreign travel for more than one year but does not specify the validity of the passport, the passport

should be issued for the period of travel mentioned in the order. Such a passport can also be renewed on Court orders. Therefore, a reading of GSR 570(E) makes it very clear that to give exception or to exempt applicants from the rigour of Section 6(2)(f) of the Act, GSR 570(E) has been brought into operation. The issuance of the passport and the period of its validity; the period of travel etc., are thus under the aegis of and control of the Court."

16. Recently, the Hon'ble Apex Court in the case of **Mahesh Kumar Agarwal vs. Union of India and Anr.** while deciding **SLP (Civil) No.17769/2025** on 19.12.2025 held that pendency of criminal case does not put an absolute bar on the renewal of passport. Considering several provisions of the Act of 1967 it has been held by the Hon'ble Apex Court in para 8, 9 and 19 to 27 as under:

"8. From a conjoint reading of Sections 5, 6, 7 and 8 of the Passports Act, a structured scheme emerges. Section 5 is the starting point. It prescribes the manner in which an application for a passport is to be made and requires the passport authority, subject to the other provisions of the Act, to decide the application by issuing or refusing the passport through a written order. Section 6 qualifies that power and sets out, in an exhaustive manner, the grounds on which the passport authority shall refuse to issue a passport or travel document. Sub-section (1) deals with refusal of endorsements for particular countries. Subsection (2) governs refusal of issue itself and again begins with the words "subject to the other provisions of this Act". It obliges the authority to refuse issue where any of the situations in clauses (a) to (i) are present, including the pendency of criminal proceedings before a court in India under clause (f). Section 7 then addresses the duration of a passport. It provides that a passport shall continue in force for such period as may be prescribed, but also permits the authority, for reasons to be communicated in writing to the applicant, to issue a passport for a shorter period in an appropriate case. Section 8 deals with the converse situation where a

passport has already been issued for a shorter period. It permits extension of such a passport, but expressly states that the provisions of the Act shall apply to such extension as they apply to the issue of the passport, thereby linking an extension back to the same statutory conditions and limitations that govern original issue under Sections 5 and 6.

9. Sections 9, 10 and 22 reinforce and complete this framework. Section 9 enables the Central Government, by rules, to prescribe the conditions subject to which and the form in which a passport shall be issued or renewed. It also permits, with prior approval of the Central Government, the imposition of case-specific conditions in addition to the prescribed ones. Section 10 operates at a later stage and deals with the life of a passport after it has been issued. It empowers the passport authority, in defined situations, to require production of the passport and to impound or revoke it. One such situation, under Section 10(3)(e), is where proceedings in respect of an offence alleged to have been committed by the holder are pending before a criminal court in India. Section 22 then confers on the Central Government the power, where it considers it necessary or expedient in the public interest, to exempt any person or class of persons from the operation of specified provisions of the Act or the Rules, subject to conditions. It is in exercise of this power that GSR 570(E) was issued, creating a controlled exemption from the bar in Section 6(2)(f) in favour of persons facing criminal proceedings who obtain permission from the concerned court and comply with the conditions set out in that notification.

10. to 18. XX      XX      XX      XX      XX

19. Moreover, Section 6(2)(f) speaks of “proceedings in respect of an offence alleged to have been committed” and is directed at the pre-conviction stage. Once there is a conviction, the situation falls, if at all, within Section 6(2)(e), which uses a different threshold and language. The Delhi conviction, therefore, could not have been used to reinforce a bar under Section 6(2)(f). In any event, the Delhi High Court, fully conscious of the conviction and sentence, has itself granted no objection for renewal for ten years, while retaining its control over travel.

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 judgements<sup>6</sup> 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.

22. It is important to keep distinct the possession of a valid passport and the act of travelling abroad. A passport is a civil document that enables its holder to seek a visa and, subject to other laws and orders, to cross international borders. Whether a person who is on bail or facing trial may actually leave the country is a matter for the criminal court, which can grant or withhold permission, impose conditions, insist on undertakings, or refuse leave altogether. In the present case, both criminal courts have done exactly that. To refuse renewal on the speculative apprehension that the appellant might misuse the passport is, in effect, to second-guess the criminal courts' assessment of risk and to assume for the passport authority a supervisory role which the statute does not envisage.

23. The reliance placed by the respondents and the Calcutta High Court on the fact that the application for re-issue was made after the original passport had expired is also misplaced. The Passports Act contemplates passports that "continue in force" for a prescribed period. It does not create a separate disability for applicants whose earlier passports have lapsed. Re-issue after expiry is a routine occurrence. The only relevant question remains whether any of the

statutory grounds of refusal under Section 6(2) continue to apply in the face of an exemption granted under Section 22 by way of GSR 570(E). For the reasons already discussed, we are of the clear view that they do not in the present case.

24. Finally, even on the respondents' own reading of GSR 570(E), the consequence of an order which does not specify a longer period of validity is that the passport should be issued for a shorter duration, usually one year, and not that renewal must be refused altogether. The learned Single Judge and the Division Bench did not examine this aspect, because they proceeded on the premise that the appellant stood outside the exemption altogether. Once it is recognised that the appellant is within the exempted class, the correct question for the passport authority is the appropriate period of validity in the facts of the case, not whether any renewal is permissible at all. In the present matter, given that the Delhi High Court has expressly authorised renewal for ten years and the NIA Court has imposed stringent conditions including redeposit and prior permission for travel, we see no justification to curtail the normal period of validity.

25. In the light of the above discussion, we are unable to sustain the approach adopted by the learned Single Judge and the Division Bench. Both have treated Section 6(2)(f) as an absolute bar so long as any criminal proceeding is pending, without giving full effect to the statutory exemption mechanism under Section 22 and GSR 570(E), and without adequately appreciating that the criminal courts actually dealing with the appellant's cases have consciously permitted renewal while retaining stringent control over any foreign travel. They have, in effect, converted a qualified restriction, designed to secure the presence of an accused, into a near-permanent disability to hold a valid passport, even where the criminal courts themselves do not consider such a disability necessary.

26. We clarify that our conclusions are confined to the legal interplay between Sections 5, 6, 7, 8, 9, 10 and 22 of the Passports Act, GSR 570(E) and the OM dated 10.10.2019, on the facts of the present case. We express no opinion on the merits of the criminal proceedings pending before the NIA Court, Ranchi, or on the appeal pending before the Delhi High Court, nor do we dilute in any manner the power of those courts

to vary, strengthen or relax the conditions of bail, including conditions relating to travel abroad, in accordance with law.

27. It is needless to observe that nothing in this judgment curtails the powers of the passport authority under Section 10 of the Passports Act. If any future order of a competent court, or any subsequent development, requires impounding or revocation of the appellant's passport, it shall be open to the authority to act in accordance with Section 10 and other applicable provisions. Equally, if the appellant violates any condition imposed by the NIA Court, Ranchi, or the Delhi High Court, it will be open to those courts to take such steps, including modification of bail and recall of permissions, as may be warranted."

17. Even this Court in the case of **Savita Sharma vs. Union of India and Another** while deciding **S.B. Civil Writ Petition No.2602/2024** vide order dated 14.11.2024 has held that even adverse police report would not dis-entitle a citizen from his legal right to have a passport and it has been held so in para 19 to 23 of the order dated 14.11.2024 which reads as under:

"19. From the bare reading of the above Sections, it would transpire that on receipt of the application, the Passport Authority is empowered to make such inquiry which they may consider necessary before issuance of a Passport. It is because of such power of making inquiry, the Passport Officer is entitled to seek Police verification report with regard to the antecedents of the person who has applied for the issuance of a Passport. The purpose of such inquiry by the Passport Authority is to enable themselves to make up their mind as to whether the Passport or travel documents should be issued or refused, in the circumstances of each particular case. In any case, the decision over the issue of a Passport or travel documents has to be taken by the Passport Authority alone and for taking such decision they may keep the inquiry report in view. Merely because the inquiry report received is adverse, the Passport Authority cannot differ from their own decision on issuance of Passport, nor they can refuse the same without applying mind to the facts stated in the report.

20. Adverse Police Verification report per se does not dis-entitle a citizen from his legal right to have a passport. It is for the Passport Authority to take into consideration the facts/antecedents of the person, who has applied for issuance of a Passport, alleged in the verification report, for deciding whether passport should be issued to him or refused. The passport authority is not bound by the adverse police verification report.

21. There is no material available on the record to show that on what basis an adverse police verification was submitted with regard to the fact that whether the petitioner is an Indian National or not.

22. The impugned action of the respondents, cannot be allowed to sustain and the same is liable to be set-aside. It is, however, open for the respondents to proceed against the petitioner if anything is found adverse against her after following the due procedure, as permissible in law.

23. In view of the above, the writ petition stands disposed of. The respondents are directed to dispose of the application for renewing the passport of the petitioner forthwith, without any further delay preferably within a period of eight weeks."

18. In the considered opinion of this Court, registration of an FIR or pendency of any criminal case against the applicant under Sections 498A and 406 IPC cannot be treated as a valid ground for refusal of the prayer made by the applicant seeking renewal of his/her passport. Denial of such permission certainly amounts to violation of fundamental rights of any citizen guaranteed under Article 21 of the Constitution of India. Each and every citizen of India has a right to travel abroad, as has been held so by the Hon'ble Apex Court in the case of **Maneka Gandhi** (supra) and even the Notification which has been issued by the Ministry of External Affairs dated 25.08.1993 also provides such procedure, wherein any person against whom a criminal case is pending, can

be allowed to depart from India with the permission from the competent Court.

19. The only apprehension in the mind of the authorities concerned is that in case passport of such person is renewed and he/she is permitted to travel abroad, then there is every likelihood that he/she may abscond and may not return back to face the trial.

20. This Court is required to draw a balance between the right of the petitioner to travel abroad and also the right of the prosecution to duly proceed against the petitioner in the trial. For ensuring the presence of the accused before the Trial Court, which in the present case is the petitioner, any appropriate condition can be imposed upon him and in case, such condition is violated, suitable coercive action can be taken against such accused (the petitioner).

21. Accordingly, the impugned order 05.01.2023 stands quashed and set-aside. The respondents are directed to reconsider the application submitted for the renewal of passport by the petitioner afresh in accordance with law.

22. In case, the passport of the petitioner is renewed, the petitioner is directed to submit an undertaking before the Court so also before the Investigating Officer of the FIR No.86/2021, registered with the Police Station Mahila Thana, Jaipur City (East), assuring therein that he would not travel abroad without seeking prior permission of the Court and would further return back to face the trial, as and when directed to do so, in case such permission to travel abroad is granted to him by the Court.

23. In case the petitioner violates any of the conditions of the undertaking or even fails to submit such undertaking, the authorities concerned would be at liberty to impound the passport of the petitioner.

24. With the aforesaid observations, the instant criminal writ petition stands disposed of. The stay application and all pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J