



[2026:RJ-JP:15733]

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

S.B. Criminal Miscellaneous (Petition) No. 8733/2024

Surendra Pal Singh Sahni S/o Late Rajendra Singh Sahni, Aged About 66 Years, R/o Rajendra Villa, Rubber Factory Road, Bhimganj Mandi, Kota Junction, Kota, (Rajasthan).

-----Petitioner

Versus

State of Rajasthan, Through Public Prosecutor.

-----Respondent

For Petitioner(s) : Mr. Suresh Kumar Sahni, Adv.
Mr. Ram Mohan Sharma, Adv.
For Respondent(s) : Mr. Onkar Singh Rajpurohit, PP

HON'BLE MR. JUSTICE CHANDRA PRAKASH SHRIMALI

Order

15/04/2026

याची/अभियुक्त की ओर से यह याचिका अंतर्गत धारा 528 भारतीय नागरिक सुरक्षा संहिता विचारण न्यायालय मुख्य न्यायिक मजिस्ट्रेट कोटा (जिसे आगे 'विचारण न्यायालय' से संबोधित किया जाएगा) द्वारा प्रकरण संख्या 8308/2023 सरकार बनाम तेजन्द्र पाल सिंह उर्फ रिम्पी व अन्य में पारित आदेश दिनांक 08.04.2024 से व्यथित होकर प्रस्तुत की गई है, जिसके माध्यम से विद्वान विचारण न्यायालय द्वारा याची/अभियुक्त की ओर से पासपोर्ट नवीनीकरण हेतु प्रस्तुत प्रार्थना पत्र अस्वीकार कर खारिज किया गया है।

याची/अभियुक्त के विद्वान अभिभाषक का बहस के दौरान यह तर्क रहा है कि विद्वान विचारण न्यायालय ने सरकार बनाम तेजन्द्र पाल सिंह उर्फ रिम्पी व अन्य नियमित आपराधिक प्रकरण संख्या 8308/2023 में पारित आदेश



[2026:RJ-JP:15733]

(2 of 11)

[CRLMP-8733/2024]

दिनांक 08.04.2024 द्वारा याची/अभियुक्त के विरुद्ध पूर्व में 23 प्रकरण लंबित होने के आधार पर पासपोर्ट के नवीनीकरण हेतु अनापत्ति प्रमाणपत्र जारी किया जाना उचित नहीं माना है। याची/अभियुक्त पर पूर्व में जो 23 प्रकरण लंबित हैं, उनमें से किसी भी प्रकरण में याची/अभियुक्त दोषसिद्ध नहीं हुआ है और वे समस्त प्रकरण वर्तमान में निस्तारित नहीं हुए हैं। याची/अभियुक्त के पुत्र-पुत्री विदेश में निवास करते हैं तथा याची/अभियुक्त अपने पासपोर्ट नंबर बी-6021432 का नवीनीकरण कराना चाहता है। बिना किसी न्यायसंगत और उचित आधार के याची/अभियुक्त को विदेश जाने से रोकना उसकी निजी स्वतंत्रता के मूल अधिकारी का उल्लंघन है। अतः याची/अभियुक्त की ओर से प्रस्तुत यह याचिका स्वीकार कर आलोच्य आदेश दिनांक 08.04.2024 अपास्त कर प्रत्यर्थी को 30 दिवस के भीतर याची का पासपोर्ट 10 वर्ष के लिए नवीनीकृत किए जाने का आदेश दिया जावे।

याची/अभियुक्त के विद्वान अभिभाषक ने अपने तर्कों के समर्थन में निम्नलिखित विनिश्चय प्रस्तुत किए:-

1. Sannith Reddy Mandhadi Vs. The Union of India & another; 2024 SCC OnLine TS 767
2. Balkaran Singh Versus State of Rajasthan, Through PP; S.B. Criminal Misc.(Pet.) No. 7824/2022; order dated 21.11.2022.
3. Anil Wadhwa Versus State of Rajasthan, Through Public Prosecutor; S.B. Criminal Misc.(Pet.) No. 9110/2022; order dated 07.07.2023.
4. Nareshant Sharma Versus State of Rajasthan, Through Public Prosecutor; S.B. Criminal Misc.(Pet.) No. 1100/2021; order dated 26.07.2021.

विद्वान लोक अभियोजक इस तथ्य से सहमत हैं कि याची/अभियुक्त के विरुद्ध लंबित समस्त 23 प्रकरणों में अभी विचारण समाप्त नहीं हुआ है और किसी भी प्रकरण में उसे दोषसिद्ध नहीं किया गया है। इसके



[2026:RJ-JP:15733]

(3 of 11)

[CRLMP-8733/2024]

अतिरिक्त याची/अभियुक्त के पासपोर्ट का नवीनीकरण रोके जाने का कोई आधार नहीं है।

मैंने उभयपक्षों के तर्कों पर मनन किया तथा पत्रावली का अवलोकन किया।

याची/अभियुक्त के विरुद्ध प्रथम सूचना रिपोर्ट संख्या 136/2022 पुलिस थाना कोतवाली, कोटा शहर में धारा 420, 406, 467, 468, 471, 120बी भारतीय दंड संहिता में आरोप पत्र प्रस्तुत हुआ है। याची/अभियुक्त के विरुद्ध पूर्व में 23 प्रकरण दर्ज बताए गए हैं, वे भी प्रायः इसी प्रकरण के समान ही आपराधिक कृत्य के बताए गए हैं और उक्त समस्त 23 प्रकरणों में से किसी में भी विचारण समाप्त नहीं हुआ है तथा किसी भी प्रकरण में याची/अभियुक्त को दोषसिद्ध कर दंडित नहीं किया गया है।

इस संबंध में पासपोर्ट अधिनियम, 1967 की धारा 6(2) को यहां उल्लेखित किया जाना न्यायोचित होगा:—

"(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;



[2026:RJ-JP:15733]

(4 of 11)

[CRLMP-8733/2024]

(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."

उक्त पासपोर्ट अधिनियम की धारा 6(2)(f) के तहत केन्द्र सरकार ने नोटिफिकेशन दिनांक 28.06.1993 जारी किया, जो निम्न प्रकार है:-

"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





[2026:RJ-JP:15733]

(5 of 11)

[CRLMP-8733/2024]

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 a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court





[2026:RJ-JP:15733]

(6 of 11)

[CRLMP-8733/2024]

concerned, appear before it at any time during the continuance in force of the passport so issued."

Sannith Reddy Mandhadi Vs. The Union of India & Another;

2024 SCC OnLine TS 767 विनिश्चय में माननीय तेलंगाना उच्च न्यायालय द्वारा पारित आदेश दिनांक 26.02.2024 के पैरा संख्या 7 से 12 को यहां उल्लेखित किया जाना न्यायोचित होगा:—

"7. It is also relevant to note that the Apex Court in Vangala Kasturi Rangacharyulu's case (cited supra) had an occasion to examine the provisions of the Passports Act, 1967, 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 an offence involving moral turpitude and sentence 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 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 Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to issue the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal appeal in S.C.



8. The 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.”

9. The Apex Court in “Menaka Gandhi v. Union of India” (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.

10. The Division Bench of the Apex Court in its judgment dated 09.04.2019 reported in 2019 SCC OnLine SC 2048 in Satish Chandra Verma v. Union of India (UOI) 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.”

11. Referring to the said principle and also the principles laid down by the Apex Court in several other judgments, 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” 2022 SCC OnLine P&H 1176 held that a right to travel abroad cannot be deprived except by just, fair and reasonable procedure.

12. In the judgment dated 08.04.2022 of the Andhra Pradesh High Court reported in 2023 (4) ALT 406 (AP) in “Ganni Bhaskara Rao v. Union of India” at paras 4, 5 and 6, observed as under:

“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 I was however stayed. In those circumstances also it was held that the passport authority cannot refuse the “renewal” of the passport.

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 postconviction, 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.

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





[2026:RJ-JP:15733]

(10 of 11)

[CRLMP-8733/2024]

*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.***

उपरोक्त विधिक प्रावधानों व विनिश्चय में अभिनिर्धारित सिद्धांत को दृष्टिगत रखते हुए यह स्पष्ट है कि याची/अभियुक्त के विरुद्ध लंबित प्रकरणों में से उसे एक भी प्रकरण में दोषसिद्ध नहीं किया गया है और सभी प्रकरण वर्तमान में लंबित हैं। आपराधिक प्रकरण लंबित रहने के आधार पर पासपोर्ट नवीनीकरण को रोका जाकर व्यक्ति को विदेश जाने के अधिकार से रोकना भारतीय संविधान के अनुच्छेद 21 में वर्णित प्रावधानों का उल्लंघन है। याची/अभियुक्त 66 वर्षीय है और उसके पुत्र-पुत्री विदेश में निवास करते हैं तथा याची/अभियुक्त उनसे मिलने के लिए विदेश जाना चाहता है। याची/अभियुक्त के विरुद्ध आपराधिक प्रकरण लंबित रहने के आधार पर



[2026:RJ-JP:15733]

(11 of 11)

[CRLMP-8733/2024]

पासपोर्ट अधिनियम की धारा 6(2)(e) को दृष्टिगत रखते हुए पासपोर्ट का नवीनीकरण करने से नहीं रोका जा सकता है। याची/अभियुक्त के पासपोर्ट का नवीनीकरण करने से रोके जाने का अन्य कोई आधार विद्वान लोक अभियोजक द्वारा नहीं बताया गया है। ऐसी स्थिति में विद्वान विचारण न्यायालय द्वारा पारित आलोच्य दिनांक 08.04.2024 उक्त विधिक प्रावधानों व प्रस्तुत विनिश्चयों में अभिनिर्धारित सिद्धांत को दृष्टिगत रखते हुए अपास्त किए जाने योग्य है।

उपरोक्त विवेचन के आधार पर याची/अभियुक्त की याचिका अंतर्गत धारा 528 भारतीय नागरिक सुरक्षा संहिता स्वीकार की जाती है तथा विचारण न्यायालय मुख्य न्यायिक मजिस्ट्रेट कोटा द्वारा प्रकरण संख्या 8308/2023 सरकार बनाम तेजन्द्र पाल सिंह उर्फ रिम्पी व अन्य में पारित आदेश दिनांक 08.04.2024 अपास्त किया जाता है और आदेश दिया जाता है कि याची/अभियुक्त द्वारा सक्षम प्राधिकारी के समक्ष पासपोर्ट नवीनीकरण के लिए नवीन प्रार्थना पत्र प्रस्तुत करने पर संबंधित अधिकारी पासपोर्ट अधिनियम की धारा 5 में वर्णित प्रावधानों की पालना करते हुए विद्वान विचारण न्यायालय द्वारा पारित आलोच्य दिनांक 08.04.2024 से प्रभावित हुए बिना प्रार्थना पत्र प्रस्तुत करने की दिनांक से 30 दिवस में नियमानुसार आदेश पारित कर प्रार्थना पत्र का निस्तारण करें।

संलग्न लंबित प्रार्थना पत्र, यदि कोई हों, भी निस्तारित किए जाते हैं।

(CHANDRA PRAKASH SHRIMALI),J

MANISH SAINI /28