

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

W.P.A. No. 9256 of 2026

Amit Kumar Agarwal

Vs.

Union of India, Ministry of External Affairs & Ors.

Mr. Abhrajit Mitra, Sr. Adv.

Mr. Anurag Bagaria

....For the petitioner.

Mr. Kumar Jyoti Tewari, Sr. Adv.

Md. Shakil

....For the respondent authorities.

Hearing Concluded On : 31.07.2026

Judgment Delivered On : 05.08.2026

Judgment Uploaded On : 05.08.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ petition praying for a direction upon the respondent no. 3 to process and grant renewal of petitioner's passport with the validity of 10 years.
2. The Enforcement Directorate initiated proceedings being ECIR Case No. 05 of 2022 and ECIR Case No. 01 of 2023, pending before the Learned Court of AJC-I-cum-Special Judge, PMLA, Ranchi (hereinafter referred to as "Learned Trial Court"). In compliance of the order passed by the Hon'ble Supreme Court, the petitioner has deposited his passport before the Learned Trial Court.
3. The passport of the petitioner was due to expire on 28th January, 2026. The petitioner filed an application on 17th September, 2025 before the Learned Trial Court praying for release of his passport for renewal and permission to travel abroad. On 9th October, 2025, the Learned Trial Court in ECIR No. 05 of 2022, allowed the application filed by the petitioner by releasing the passport for the purpose of renewal, subject to furnishing an indemnity bond of Rs. 10,00,000/- along with original title documents of equivalent value, with an undertaking that the petitioner would not misuse the passport and would not travel abroad without prior permission of the Learned Trial Court. The Learned Trial Court further directed the petitioner to surrender the passport before the Learned Trial Court within 5 days from the date its renewal.

4. On 13th October, 2025, the Learned Trial Court in ECIR Case No. 01 of 2023, allowed the application filed by the petitioner to release the passport for the purpose of renewal, subject to the abovementioned conditions. After release of passport, the petitioner has applied for renewal of his passport on 17th October, 2025, before the respondent no. 3 and also disclosed that ECIR Cases are pending before the Learned Trial Court. By a communication dated 3rd November, 2025, the respondent no. 3 directed the petitioner to produce an order from the Learned Trial Court specifically permitting the petitioner to depart from India by mentioning the validity period of the passport for processing the application filed by the petitioner.
5. Mr. Abhrajit Mitra, Learned Senior Advocate, representing the petitioner submits that on receipt of the communication dated 3rd November, 2025, the petitioner has submitted a detailed representation on 23rd February, 2026, clarifying that the requirement of furnishing a separate permission to depart from India is not warranted in view of the order dated 9th October, 2025, passed by the Learned Trial Court.
6. Mr. Mitra submits that by a letter dated 16th March, 2026, the respondent authorities have wrongly and illegally refused to issue a regular passport to the petitioner with a validity of 10 years by taking into consideration of Gazette Notification No. GSR 570(E) dated 25th August, 1993. He submits that the respondent authorities have misinterpreted and implied the provisions of the notification dated 25th August, 1993, inasmuch the said notification does not mandate a

separate or independent permission to travel abroad as pre-conditions for renewal of passport when the competent criminal court has already permitted for renewal.

7. Mr. Mitra has relied upon the judgment in the case of ***Mahesh Kumar Agarwal vs. Union of India & Anr.*** reported in **2025 SCC OnLine SC 2887** and submits that at the stage of renewal for passport, the passport authorities are not required to insist upon prospective permission for travel and once the criminal court has permitted renewal, the bar under Section 6(2)(f) of the Passports Act, 1967, cannot be invoked to refuse or delay renewal.
8. Mr. Mitra submits that Sections 5 and 6 of the Passports Act, 1967, exhaustively enumerate the grounds on which issuance of a passport may be refused. He submits that the reasons cited in the impugned communication do not fall within the permissible statutory grounds. He submits that Section 6(2)(f) only enables refusal where proceedings are pending, however, the same must be exercised reasonably and in consonance with the judicial orders. He submits that in the present case, the Learned Trial Court has already granted permission for renewal of passport, thus the respondents cannot overwrite or frustrate the judicial order.
9. Mr. Mitra submits that the Learned Trial Court has expressly permitted the petitioner to renew the passport and also directed the petitioner to submit the passport before the Learned Trial Court within 5 days from

the date of renewal, thus the respondent authorities cannot sit as an Appellate Authority over the order passed by the Learned Trial Court by imposing additional conditions. He submits that the Passports Act, contemplates issuance of passports for a prescribed duration normally 10 years, and permits shorted duration only for valid and recorded reasons but in the present case, no cogent reason has been assigned by the respondents for restricting the validity of the passport.

10. Mr. Mitra has relied upon the judgment in the case of ***Union of India & Anr. vs. Rajgopal Chakravarthi Venkatesh*** reported in **2026 SCC OnLine Del 4692** and submits that the Hon'ble Division Bench of the Delhi High Court by relying upon the case of ***Mahesh Kumar Agarwal (supra)***, held that where the Court has not specified any period, the renewal can only be for a period of one year is also misconceived as the Hon'ble Supreme Court has only recorded the provisions of the Notification by stating that in an appropriate case, the passport authority has power to issue the passport for a shorter duration as well. He submits that in the absence of a court-specified period, the passport authority is denuded of the power to review a passport for a period exceeding one year. He submits that the renewal of passport must be considered in accordance with the provisions of the Act and the Rules.

11. *Per contra*, Mr. Kumar Jyoti Tewari, Learned Senior Advocate, representing the respondent authorities submits that the Government of India, Ministry of External Affairs was of the opinion that it is

necessary in the public interest to exempt the 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 produced orders from the court concerned permitting them to depart from India from the operation of the provisions of sub-clause (f) of clause (2) of Section 6 of the Passports Act, subject to the conditions *a(i)* for the period specified in the order of the court, if the court specifies a period for which the passport has to be issued or *a(ii)* if no period either for 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.

12. Mr. Tewari submits that the order obtained by the petitioner from the Learned Trial Court does not reflect any specified period and as such by a communication dated 16th March, 2026, informed to the petitioner that as per the notification dated 25th August, 1993, a passport with one year validity can be issued to the petitioner in terms of the order dated 13th October, 2025, passed by the Learned Trial Court.

13. Mr. Tewari submits that sub-clause (f) of clause (2) of Section 6, if a proceeding in respect of an offence alleged to have been committed by the applicant is pending before the criminal court in India, the authority can refuse for issuance of passport or travel document. He submits that the notification of 25th August, 1993, was issued in exercise of power conferred by clause (a) of Section 22 of the Passports Act, 1967 and in the said notification, it is categorically mentioned that

if no period either for issue of passport or for the travel abroad is specified, the passport shall be issued for a period of one year only.

14. Mr. Tewari submits that the vires of clause a(ii) of the Notification No. GSR570(E) dated 25th August, 1993, was challenged before this Court by way of writ application being WPO No. 353 of 2024 and the Coordinate Bench of this Court has held that the Central Government has issued the said notification in exercise of power under Section 22 of the Passports Act, 1967, and has chosen its legislative wisdom to delineate the two situations as provided in sub-clauses (i) and (ii) of clause (a) of the notification and held that the said notification is intra vires the Passports Act, 1967, as well as the Constitution of India.
15. Mr. Tewari submits that the facts in the case of ***Mahesh Kumar Agarwal (supra)***, are distinguishable from the facts of the instant case. He submits that in the case of ***Mahesh Kumar Agarwal (supra)***, the NIA Court did not itself mentioned 10 years in its order but the application of the petitioner before the Court is specifically sought for renewal of 10 years and the NIA Court granted no objection for renewal, released the passport for that limited purpose, directed re-deposit after renewal and prohibited the petitioner from obtaining any VISA or travelling abroad without its permission.
16. Mr. Tewari submits that in the present case, the Learned Trial Court has not passed any order for renewal of passport for any specific time, and thus the respondents have rightly issued the impugned

communication dated 16th March, 2026 that the passport of the petitioner will be renewed with one year validity.

17. Heard the Learned Counsel for the respective parties, perused the materials on record and the judgments relied by the parties. Sub-clause (f) of clause (2) of Section 6 of the Passports Act, 1967, reads as follows:

“6. (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 anyone or more of the following grounds, and on no other ground, namely:

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before the criminal court in India.”

18. Clause (ii) of clause (a) of the Notification No. G.S.R. 570(E) dated 25th August, 1993, reads as follows:

“(a) the passport to be issued to every such citizen shall be issued- (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.”

19. Learned A.J.C.I-cum-Special Judge, PMLA, Ranchi on the application filed by the petitioner has passed the following order:

*“Since after hearing both the parties passport of the petitioner has been directed to be released in one another case pending in this court on furnishing **an indemnity bond of Rs. 10 lakhs with original papers of his property of the equivalent amount along with an undertaking that he will not misuse his passport and will not undertake without the permission of the Court, passport of the petitioner is directed to be released in favour of the petitioner subject***

to the condition that he will surrender his passport in the court within 5 days of the renewal from the passport authority.”

20. Section 22 of the Passports Act, 1967, provides Power to exempt, which reads as follows:

“22. Power to exempt.- Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,-

- (a)*** exempt any person or class of persons from the operation of all or any of the provisions of this Act or the rules made thereunder; and
- (b)*** as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions.”

21. Section 24 of the Passports Act, 1967, provides for Power to make rule, which reads as follows:

“24. Power to make rules.-(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a)*** the appointment, jurisdiction, control and functions of passport authorities,
- (b)*** the classes of persons to whom passport and travel documents referred to respectively in sub-section (1) and sub-section (2) of section 4 may be issued;
- (c)*** the form and particulars of application for the issue or renewal of a passport or travel document or for endorsement on a passport or travel document and where the application is for the renewal, the time within which it shall be made;

(d) the period for which passports and travel documents shall continue in force;

(e) the form in which and the conditions subject to which the different classes of passports and travel documents may be issued, renewed or varied;

[(ee) specifying the foreign country for the purposes of the Explanation to subsection (1) of section 5];

(f) the fees payable in respect of [any application for the issue of a passport under sub-section (1) of section 5 or issue of a passport] [for visiting a foreign country referred to in sub-section (1-A) of section 5] or travel document or for varying any endorsement or making a fresh endorsement on a passport or a travel document and the fees payable in respect of any appeal under this Act:

(g) the appointment of appellate authorities under sub-section (1) of section 11, the jurisdiction of, and the procedure which may be followed by, such appellate authorities;

(h) the services (including the issue of a duplicate passport or travel document in lieu of a passport or travel document lost, damaged or destroyed) which may be rendered in relation to a passport or travel document and the fees therefor,

(i) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of the Act.

(3) *Every rule made under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”*

- 22.** The contention of Mr. Mitra is that the Section 22 provides only exemption and not imposition of condition. Notification dated 25th August, 1993, exempted for obtaining passport/ travel document during pendency of criminal case with the permission of the concern Court but Clause (a)(ii) imposed condition that specific time period is required in the order of the Court for renewal /obtaining passport failing which the passport will be issued only for a period of one year, thus the said condition cannot be a binding precedent as the said condition is not imposed under Section 24 of the Passports Act, 1967. He has relied upon Rule 12 of the Passports Rules, 1980, wherein an ordinary passport for a person 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.
- 23.** As per Section 24, the Central Government may, by Notification in the Official Gazette, makes rules. Initially, Passports Rules, 1967, was framed. Subsequently Passport Rules, 1967, is repealed and new Passport Rules, 1980, came into force with effect from 11th December, 1980. In Rule 12 of 1980, Rules, duration of passports or travel documents is provided. As per Rule 12, the duration of passport is 10 years from the date of its issue. As per Section 6(2)(f) of the Passports Act, 1967, the Passport Authority shall refuse to issue a passport or travel document if a criminal case(s) is/ are pending against the applicant before the Criminal Court in India. The Central Government in exercise of power conferred by Clause (a) of Section 22 of the

Passports Act, 1967, issued notification No. GSR 570(E) dated 25th August, 1993, exempts the citizens of India against whom criminal proceedings are pending before a criminal Court in India and who produce orders from the court concerned permitting them to depart from India. As per conditions laid down in clause (a)(i) and (ii), the passport will be issued for the period specified in order of the Court and if no period is mentioned in such order, the passport shall be issued for a period of one year.

- 24.** The Passports Act, 1967, is a complete code that governs the issuance, denial, impounding, and renewal of passports. Section 6(2)(f) of the Act empowers the Passport Authority to refuse issuance or renewal of a passport where criminal proceedings are pending against the applicant, unless the Court has granted permission to travel.
- 25.** The Section 6(2)(f) of the Passports Act, focuses entirely on the permissibility of travel, not on the duration of the passport to be granted. However, by way of the notification dated 25th August, 1993, the Government has exempted the operation of the afore-noted provision for citizens of India against whom proceedings in respect of an offence alleged which have been committed by them are pending before a criminal court in India. For availing this exemption, citizens are required to produce orders from the Court concerned permitting them to depart from India. The insistence on specific directions from the Court for determining the duration of a passport is neither premised in the parent statute nor supported by any Rules framed

thereunder. The Passports Act does not contain any provision that empowers the Court to adjudicate on such administrative matters.

26. While the notification dated 25th August, 1993, purports to be issued under Section 22(a) of the Passports Act, it cannot be read as imposing binding conditions on the Court. Section 22(a) merely empowers the Central Government to exempt any person or class of persons from the operation of the provisions of the Passports Act or any Rule framed thereunder. It does not empower the Government to impose a new regime of conditions for passport issuance where the parent statute is silent. The notification, in essence, goes beyond exemption and creates a positive obligation on Courts to specify validity periods and imposes contingent restrictions where no such requirement exists under the statute.

27. The practice of requiring a Court order specifying the duration of the renewed passport is, at best, an internal administrative measure, and cannot be read as having the force of law. The Court's role in the passport issuance or renewal process is limited to ensure that the individual seeking a passport has not been prohibited from leaving the country under specific orders of the Court, such as bail conditions. However, beyond this, the Court is not required to intervene in determining the duration of a passport's validity. In the present case, the Trial Court discharged its limited judicial function in accordance with law by declining to impose any embargo on the renewal of passport and requiring the Petitioner to seek prior leave to travel as per

the statute. The interpretation placed by the Passport Authorities on the 1993 notification, as requiring a court-specified validity period, is plainly inconsistent with the Passports Act. The power to determine such administrative details, particularly the validity period, remains exclusively with the Passport Authorities under the Passports Act and the Rules framed thereunder and is not dependent on judicial directives unless the Court has itself curtailed the rights of the individual.

28. It is well established that delegated legislation cannot transgress the limits of the enabling statute. The Hon'ble Supreme Court in the case of **Supreme Court Employees Welfare Association vs. Union of India** reported in **(1989) 4 SCC 187**, observed that “*a delegated legislation or a subordinate legislation must conform exactly to the power granted*”. In the case of **Naresh Chandra Agrawal vs. Institute of Chartered Accountants of India** reported in **(2024) 13 SCC 241**, the Supreme Court reiterated held that while rules and notifications issued under delegated authority may be presumed valid, they must not override or supplement the parent Act. A notification cannot be treated as a source of substantive obligations unless the statute itself clearly permits such delegation.

29. The notification effectively introduces a regime where Courts are expected to pronounce on the period of passport validity, and if they refrain from doing so, the citizen's entitlement is curtailed to one year, regardless of the circumstances. This is wholly inconsistent with the legislative scheme of the Passports Act. If Parliament had intended that

Courts determine the term of validity for a passport where criminal proceedings are pending, it would have clearly articulated so under the Act. In its current form, the notification seeks to insert by executive fiat what the legislature has consciously omitted. It is a settled principle that delegated legislation cannot supplement primary law where the statute is silent.

30. The notification cannot be treated as binding on Courts or interpreted as modifying the scheme of the Act. The order of the trial court in the present case released the passport of the petitioner for renewal with certain conditions upon the petitioner and not upon the passport authorities. The Court has rightly left it to the Passport Authority to decide the matter in accordance with the law. There is no warrant for reading into this order any implied limitation or default tenure of one year. Once the Court has declined to restrict the Petitioner's right and left the matter to the statutory framework, the Passport Office must apply the law as it stands and consider the Petitioner's application without invoking any artificial constraint introduced by the 1993 notification.

31. This Court, therefore, deems it appropriate to clarify that notification may serve as a general administrative guideline, it cannot override the provisions of the parent statute, nor can it impose any obligation upon the Courts to pronounce on the tenure of a passport. The judicial function is to assess whether a person ought to be restrained from travelling abroad on account of pending proceedings. If the Court

imposes no such restriction, and merely states that travel abroad shall require prior permission, the Passport Authority must proceed in accordance with law, treating the application for renewal on its merits. The validity period of the passport is to be governed by the Passports Act and the Passport Rules, not by the absence of a court-imposed tenure.

- 32.** The vires of Clause (a)(ii) of the Notification dated 25th August, 1993, was challenged in a writ proceeding before this Court in the case of **Aditya Sarda (supra)**. While considering the said issue, the Co-ordinate Bench of this Court considered the Sections 6(2)(f), Sections 7, 8 and Section 22, held that:

“45. Hence, when sub-clause (i) confers power on the court to decide as to the period for which the applicant is permitted to depart from India, which would be adhered to by the passport authority, the discretion of the court does not flow from general law but is the creature of the said Notification as reflected in sub-clause (i) itself. As such, the power of the court under sub-clause (i) does not emanate from any law or the Constitution but has been conferred by the Central Government in its power of delegated legislation under Section 22 of the 1967 Act.

46. Similarly, when sub-clause (ii) restricts the issuance of passport to one year where the court does not specify any period, the Central Government deliberately retains with itself the power to stipulate the period of issuance of passport where the court does not exercise such discretion. Such exercise of delegated legislation is perfectly within the confines of Section 22 of the 1967 Act.

47. The principle that the wisdom of the legislature has primacy in respect of the legislative

domain can also be extended to delegated legislation exercised by the Central Government in publication of the Notification-in-question under the aegis of Section 22 of the 1967 Act.

48. *The matter can be looked at from another perspective as well. The discretion envisaged in sub-clause (ii) can be viewed from two standpoints. One view can be that the court chooses to grant unbridled permission to the applicant to leave the country by not stipulating any time-frame for such permission. The other equally valid view, however, is that the court chooses not to exercise the discretion conferred sub-clause (i) by granting such permission to depart from the country but abstaining from stipulating the period therefor. Hence, the interpretation lent by the Central Government to its own delegated legislation accepting the latter view cannot be faulted on the ground of unreasonableness or arbitrariness.*

49. *It is well-settled that a legislation or a delegated legislation, to be held unconstitutional or contrary to its parent legislation, a high ground of unconstitutionality/irrationality has to be made out. Interference with the legislative domain, either in respect of a principal legislation or a delegated legislation, requires much higher tests to be satisfied than in case of Executive action. The very concept of separation of powers ingrained in the Constitution of India is an inbuilt safeguard to unbridled power being exercised by any of the three pillars of Democracy.*

50. *Accordingly, it cannot but be construed that the Central Government, in exercise of its power under Section 22 of the 1967 Act, has chosen in its legislative wisdom to delineate the two situations as encapsulated in sub-clauses (i) and (ii) of Clause (a) of the Notification in issue.*

51. *While in case of a sub-clause (i) scenario, the court not only grants permission to the applicant to depart from India but specifies a period therefor, which has been deliberately left to the discretion of the court by the Central Government in its delegated legislation, if the court*

chooses to grant permission to the applicant to depart from India but abstains from specifying the period therefor, the power of determining the period reverts back to the residuary authority of the Central Government, which is conferred on the Central Government in the first place by the source of its power, that is, Section 22. Hence, the provision in sub-clause (ii) of Clause (a) of the impugned Notification restricting the period of issuance of passport where the court does not exercise such discretion is fully in consonance with Section 22 of the parent statute that is the Passports Act, 1967 as well as Article 19(5) of the Constitution, read in the context of Section 6(2)(f) of the 1967 Act.

52. The argument on the premise of Rule 12 cannot be sustained, since Rules framed under the 1967 Act cannot override a Notification which has been promulgated under the powers conferred by Section 22 of the parent Act itself. That apart, as rightly argued by the Union of India, Rule 12 contemplates normal situations where a passport is sought by an ordinary citizen and not where there is specific bar under Section 6(2)(f) of the said Act.

53. In such view of the matter, the challenge to the vires of the impugned Notification cannot be sustained.”

33. In the case of **Mahesh Kumar Agarwal (supra)**, the Hon’ble Supreme Court held that:

“**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 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.*

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 recognized 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 authorized 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."*

34. In the present case, the two cases are pending before the Special Judge, PMLA, Ranchi. In both cases, the petitioner has filed an application for release of his passport and for permission to go to abroad. Since the validity of the passport was going to be expired on 28th January, 2026, the prayer for release of the passport was allowed, subject to conditions that:

- i) *To furnish indemnity bond of Rs. 10,00,000/- with original papers of his property of the equivalent amount.*

- ii) An undertaking that he will not misuse his passport.*
- iii) He will not undertake any foreign trip without permission of the Court.*
- iv) He will surrender his passport before the Court within five days from the date of its renewal by the passport authority.*

35. 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 in bail or facing trial may actually leave the country is a matter for the criminal Court, which can grant or withhold permission, impose conditions, insists on undertakings, or refuse leave altogether. In the present case, two cases are pending against the petitioner before the same Court. The Court has not granted permission to go abroad. The Court only allowed for release of passport with the conditions that within five days from renewal, the petitioner shall submit the passport to the concern Court. From the order of the criminal Court, it is clear that the petitioner cannot travel abroad without prior permission of the Court. The passport authorities have not considered that even if the passport is renewed for a normal period as per Sections 7 and 8 read with Rule 12, the petitioner would not be in a position to leave India without prior permission of the Criminal Court as the petitioner has to submit his passport to the Criminal Court.

36. There is another aspect in the matter that if the passport authority renewed the passport of the petitioner only for a period of one year and by the said period, if the case is not disposed of, the petitioner has to again apply before the Criminal Court for release of passport for renewal.

37. Considering the facts and circumstances of the present case, this Court finds that the even if the passport is renewed, the petitioner will not be in a position to leave India without prior permission of the Criminal Court and the passport will remain in the custody of the Criminal Court. If the petitioner intending to go abroad, the petitioner has to obtain permission from Court, thus, it would be appropriate that instead of renewal of passport of the petitioner only for one year, the passport authorities shall be renew the passport of the petitioner for a normal period of ten (10) years from the date of its issue, subject to compliance of all formalities, within a period of three weeks from the date of receipt of this judgment. After renewal of passport, the petitioner shall strictly comply with the orders passed by the Criminal Court dated 9th October, 2025 and 13th October, 2025 by surrendering the passport within five (5) days from the date of its renewal by the passport authority.

38. WPA No. 9256 of 2026 is thus disposed of.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)