



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 36603 of 2026

Mohd. Aftab
.....Petitioner(s)
Versus
Union of India and others
.....Respondent(s)

Counsel for Petitioner(s) : R.B. Singh
Counsel for Respondent(s) : A.S.G.I., Anupama Parashar,
C.S.C.

Court No. - 2

HON'BLE J.J. MUNIR, J.
HON'BLE INDRAJEET SHUKLA, J.

Learned counsel for the petitioner is permitted to correct the description of respondent No. 2 during the course of the day.

Heard Ms. Shourya Singh Rawat, Advocate, holding brief of Mr. R.B. Singh, learned counsel for the petitioner, MS. Anupama Parashar, learned Central Government Counsel and Mr. Pradeep Singh, learned Standing Counsel appearing on behalf of the State.

The case of the petitioner is that the petitioner's passport is being withheld by the Regional Passport Officer, Lucknow on the ground that two criminal cases are pending against him. The first is being Case Crime No. 32 of 2024 under Sections 147, 148, 149, 323, 341, 504, 506, 307 IPC, PS Kareli, District Prayagraj, which is said to be a no injury case and a false implication for the petitioner. The petitioner is on bail in that case. The second case being Case Crime No. 10 of 2024 under Sections 147, 387, 447, 323, 427, PS Kareli, District Prayagraj,

which has been challenged before this Court by means of an application under Section 528 of the B.N.S.S. This Court, *prima facie* finding it to be a civil dispute, has granted stay of further proceedings *vide* order dated 18.12.2025.

The mere grant of a passport does not arm the holder with a spontaneous passage across borders. It requires applications for visas from the host country and also immigration procedures. In the event of the holder of the passport is endeavoring to travel abroad, it is always open to the Police or the other prosecuting agency involved to move the Court for the purpose of requiring the holder of the passport to surrender his passport so as to prevent him from leaving Indian shores.

It is not that in each and every case, the Court would deny permission. The Court may grant permission subject to conditions. All these are matters in the province of the Court, when the eventuality of a man, who is facing criminal proceedings and endeavoring to travel abroad arises. The issue of a passport is not that stage, when the petitioner is endeavoring to travel abroad. The passport is essentially a civil document to which a citizen is entitled under the law and it is *prima facie* no business of the passport authorities to deny a passport on the ground that a criminal case is pending. It is another matter if the pendency of the criminal case is suppressed in the application made for the purpose. This is not that kind of a case. To refuse renewal or reissue of a passport on the ground that a criminal case is pending *prima facie* appears

to be in the teeth of the law laid down by the Supreme Court in **Mahesh Kumar Agarwal v. Union of India, 2025 SCC OnLine SC 2887**. Reference in this connection may be made to the following remarks in **Mahesh Kumar Agarwal (supra)**:

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.

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.

At this stage, learned Central Government Counsel appearing for the Union of India, Ms. Anupama Parashar placed reliance upon a Bench decision of this Court in **Pawan Kumar Rajbhar v. Union of India and others, 2024:AHC:9963-DB**.

We may agree with the holding of **Pawan Kumar Rajbhar** (*supra*) or not, but if we did not, we would have to make, in the normal course, reference to a larger Bench. But, in the face of the later decision of Supreme Court in **Mahesh Kumar Agarwal**, which was not there in the day when **Pawan Kumar Rajbhar** was decided, that course of action, we think, is not at all necessary.

Admit.

Notice on behalf of respondents nos. 1, 2 and 3 is accepted by Ms. Anupama Parashar, learned Central Government Counsel, whereas that on behalf of respondents nos. 4 to 6 by Mr. Pradeep Singh, learned Standing Counsel. Both the learned Counsel are granted two weeks' time to file a counter affidavit.

Adjourned to **30.09.2026**.

To be taken up in the cause list of the day for **orders**, along

with a report regarding status of pleadings.

Order on Civil Misc. Stay Application No. 1 of 2026

Issue notice.

Let an interim *mandamus* issue to the Regional Passport Officer, Lucknow, requiring him to consider the petitioner's application for issue of passport, bearing in mind the law laid down by the Supreme Court in **Mahesh Kumar Agarwal**, or show cause, by filing a counter affidavit by the date next scheduled, why this interim *mandamus* be not made **absolute**.

The Registrar (Compliance) is directed to communicate this order to the Regional Passport Officer, Lucknow through the learned Chief Judicial Magistrate, Lucknow **within 24 hours next**.

September 14, 2026
Deepak

(Indrajeet Shukla, J.) (J.J. Munir, J.)