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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010459732026**

\+ CRL.M.C. 7185/2026 & CRL.M.A. 30032/2026

SMT.SIMRAN KAUR .....Petitioner

Through: Ms. Varnika Singh and Mr. Charanjeet Singh Bhalla, Advocates.

versus

STATE (GOVT OF NCT OF DELHI) .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for State with Mr. Narendra Kumar, Advocate along with SI Satyender Gulia, PS R.K. Puram.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **24.09.2026**

1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 assails the order dated 16th September, 2026 passed by the Additional Chief Judicial Magistrate-02, Patiala House Courts, New Delhi, whereby the Petitioner's application seeking release of her original UK Convention Travel Document and permission to travel to the United Kingdom has been declined.

2. The Petitioner is an Afghan national. She presently holds a Convention Travel Document issued by the Home Office, United Kingdom, and has leave to remain there until 22nd October, 2029. The document records that it is valid for travel to all countries except Afghanistan.

3. The criminal proceedings arise from FIR No.105/2026 dated 18th May, 2026 registered at P.S. R.K. Puram under Sections 318(4), 336(3), 340(2) and 319(2) of the Bharatiya Nyaya Sanhita, 2023,[1] read with Section 12 of the Passports Act, 1967 and Section 14 of the Foreigners Act, 1946. Section 238 BNS was subsequently added during investigation. The allegation, in substance, is that the Petitioner procured an Indian passport in the identity of "Jyoti Chawla" on the strength of forged Indian documents and departed from India using that passport on 30th August, 2023. The FIR itself records the alleged journey undertaken on the Indian passport bearing No. X6629717.

4. The Petitioner was arrested on 18th May, 2026 and was admitted to bail on 21st May, 2026, principally having regard to her pregnancy, diabetes and need for continuing medical care. One of the express conditions of bail is that she shall not leave the country without prior permission of the Court.

5. There is one aspect of the bail order which needs clarification at the outset. The Petitioner contends that, while granting bail, the Trial Court had already found the apprehension of flight to be "theoretical". That is not what the order says. The expression occurs in the submission advanced on behalf of the Petitioner. The Court itself returned no such finding; on the contrary, while granting bail on medical considerations, it specifically restrained the Petitioner from leaving India without prior permission.

6. The present request is founded principally on the Petitioner's medical condition. She is carrying a twin pregnancy conceived through IVF and the record shows gestational diabetes, hypothyroidism and complications during pregnancy. She was hospitalised in July 2026 with leaking *per vaginum* and

[1] "BNS"

abdominal pain. The subsequent ultrasound also records grossly reduced amniotic fluid in one of the sacs. These are matters which the Court does not, and cannot, treat lightly.

7. Ms. Varnika Singh and Mr. Charanjeet Singh Bhalla, counsel for the Petitioner, assail the impugned order principally on the ground that it proceeds upon a bare apprehension of non-return, without giving due weight to the Petitioner's medical condition, her conduct after release on bail, and the safeguards which she is willing to furnish. It is submitted that the Petitioner is in an advanced stage of a twin pregnancy, conceived through IVF, and is also suffering from gestational diabetes and hypothyroidism. She has already required hospitalisation during the pregnancy and, according to counsel, the available window for undertaking international air travel is rapidly closing. The proposed journey is therefore said to be neither recreational nor avoidable, but intended to enable her confinement, delivery and postnatal care in the United Kingdom, where she ordinarily resides.

8. Counsel further submit that the Petitioner is a recognised refugee in the United Kingdom and holds a valid Convention Travel Document issued by the UK Home Office. Her leave to remain there subsists until October 2029. It is urged that prolonged inability to return may prejudice her immigration and residence status and separate her, at a medically sensitive stage, from the place where her household and ordinary life are based. Reliance is placed upon ***Satwant Singh Sawhney v. D. Ramarathnam***,[2] and ***Parvez Noordin Lokhandwalla v. State of Maharashtra***,[3] to submit that the right to travel abroad is an aspect of personal liberty and that a bail condition

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[2] AIR 1967 SC 1836

[3] (2020) 10 SCC 77

should not be applied in a manner which, without sufficient justification, results in the loss of lawful residence status abroad.

9. A separate challenge is raised to the continued retention of the original UK Travel Document. Counsel submit that the document is genuine, is not itself alleged to have been forged, and is not the subject matter of the prosecution case, which concerns the Indian passport allegedly obtained in the name of "Jyoti Chawla". Relying on ***Suresh Nanda v. CBI***,[4] it is argued that while the police may seize a passport or travel document during investigation, continued retention cannot be converted into an indefinite impounding in the absence of authority under law. ***Sunderbhai Ambalal Desai v. State of Gujarat***[5] is also relied upon to contend that property which is not required to remain in police custody should ordinarily be released upon appropriate safeguards. The submission is carried further by contending that the present document has been issued by a foreign sovereign and that no Indian passport authority has passed, or could pass, an order impounding it.

10. On the question of flight risk, counsel submits that the apprehension entertained by the Trial Court is unsupported by the Petitioner's conduct after release on bail. She is stated to have joined the investigation whenever required, attended the proceedings and committed no breach of any bail condition. It is also pointed out that she had herself approached the FRRO for an Exit Visa, which, according to counsel, is inconsistent with an intention to evade the authorities. The Petitioner has a disclosed and verifiable address in the United Kingdom and family ties in Delhi.

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[4] (2008) 3 SCC 674
[5] (2002) 10 SCC 283

11. It is further urged that the case against the Petitioner is essentially documentary. The records relating to the alleged Indian passport, PRIDE data, the Regional Passport Office, FRRO and immigration authorities are already with, or are being collected by, the investigating agency. No further custodial interrogation has been sought after the initial remand. In that backdrop, counsel submits that her physical presence in India does not materially advance the investigation and that, if required, her participation can be secured through counsel or electronic means in terms of Sections 355 and 530 BNSS. It is further argued that the fact that her tourist visa has expired cannot simultaneously be relied upon as an offence and as a reason to prevent her lawful departure.

12. Counsel also invokes ***Parmanand Katara v. Union of India***[6] and ***Suchita Srivastava v. Chandigarh Administration***[7], to emphasise the constitutional protection accorded to health, bodily integrity and reproductive autonomy. The submission is that the Petitioner should be allowed to undergo confinement and postnatal care at her ordinary place of residence, particularly when the relief is time-sensitive and delay itself may make air travel medically or practically impossible.

13. Finally, it is submitted that the Court need not choose between permitting unrestricted travel and refusing the request altogether. The Petitioner offers to abide by any stringent condition considered necessary, including furnishing an FDR of an amount fixed by the Court, providing an additional local surety, disclosing her complete itinerary and residential particulars in the United Kingdom, periodically marking her presence before

[6] (1989) 4 SCC 286
[7] (2009) 9 SCC 1

the Indian High Commission or through video conferencing, appearing whenever directed, and re-depositing the original travel document immediately upon her return. Counsel therefore submit that the apprehension of non-return can adequately be addressed by conditions and does not justify an outright refusal of permission.

14. Mr. Yudhvir Singh Chauhan, APP for the State, opposes the petition. He submits that investigation is still underway; the Indian passport allegedly procured using forged documents has not been recovered; further information, including material concerning the documents used for obtaining the Indian identity, is awaited; and, if permitted to go to the United Kingdom, where she has asylum and settled residence, there is no effective assurance of her return.

Analysis

15. The decisions in *Satwant Singh Sawhney* and ***Maneka Gandhi v. Union of India***,[8] recognise freedom to travel abroad as an aspect of personal liberty under Article 21. Those decisions, however, arose in the context of Indian citizens. The Petitioner before this Court is an Afghan national, presently holding refugee status and lawful residence in the United Kingdom, and travels on a Convention Travel Document issued by the UK Home Office. It is unnecessary, for the purposes of the present petition, to determine whether the right recognised in those decisions is available to a foreign national in precisely the same amplitude. Article 21 undoubtedly extends its protection of life and personal liberty to a foreigner. Even assuming, therefore, that the Petitioner can invoke the right to travel abroad in the present context, that right is not absolute. Where criminal proceedings

are pending, a restriction intended to secure the accused's continued availability to the investigation and the Court is permissible, provided it bears a fair, reasonable and proportionate relationship to that object.

16. *Parvez Noordin Lokhandwalla* itself proceeds on precisely that basis. The Supreme Court emphasised that a condition restricting travel must have a nexus with securing the accused's presence and must be assessed on the facts of the particular case. The permission granted there rested, among other things, on a long and demonstrated history of the accused travelling between India and the United States and returning, his substantial ties with India, and the limited period for which travel was sought. Those circumstances are materially different from the present case.

17. More recently, in ***Seesa Santosh v. State of Telangana***[9], the Supreme Court again drew a distinction between possession of a passport and permission to leave India. It also reiterated that the right to travel abroad cannot be considered in isolation from the effective administration of criminal justice and the need to secure the presence of an accused. On the facts before it, even a plea founded on medical treatment abroad was not considered sufficient to justify foreign travel.

18. It is in this setting that the present case has to be considered. The Court's concern does not stem from the Petitioner's Afghan nationality. Nor can the fact that she has lawful and settled residence in the United Kingdom, by itself, conclude the matter against her. That circumstance is undoubtedly relevant while assessing whether her return can reasonably be secured, but it is only one part of the enquiry. The real difficulty lies in the combination of

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[8] (1978) 1 SCC 248
[9] 2026 INSC 628

circumstances which arise in the present case.

19. The allegation being investigated is itself one of securing an Indian identity and an Indian passport on allegedly forged documents and using that passport for international travel. The investigation has, according to the State, yielded material showing that the residential address furnished for the Indian passport did not correspond to the Petitioner; the Class X certificate used in the process has been reported by CBSE to be false; and the original Indian passport remains unrecovered. The role of other persons allegedly involved in procuring the documents is also still being investigated.

20. At the hearing, the Investigating Officer also produced the case diary and the material collected so far. The Court has looked at that material only for the limited purpose of assessing whether the State's apprehension is founded on something more than conjecture. Section 192 BNSS permits the Court to use the case diary as an aid and expressly does not confer upon an accused a general right to inspect it merely because the Court has referred to it. The Supreme Court in ***P. Chidambaram v. Directorate of Enforcement***[10] has recognised that a Court may, even before trial, peruse the case diary and material collected during investigation while considering questions relating to bail and the correctness of an order under challenge, while cautioning against reproducing such material in a manner which may prejudice either side.

21. The Court will therefore say no more about that material than is necessary. It includes photographs stated by the Investigating Officer to have been obtained from the relevant airport/immigration records and to depict the Petitioner during the journey which, according to the prosecution,

was undertaken on the Indian passport in the assumed identity. At this stage, the material does no more than lend *prima facie* support to the prosecution's assertion that its apprehension is not merely hypothetical.

22. This observation must not be misunderstood. The Petitioner continues to be presumed innocent. Nothing in this order is a finding that the passport was forged by her or that the prosecution case has been proved. Those are matters for investigation and, if a charge-sheet is filed, for trial. The presumption of innocence, however, does not require the Court to ignore the nature of the accusation and the material collected thus far when deciding whether an existing bail condition should be relaxed.

23. The gravity of an allegation, by itself, would ordinarily not answer an application of this nature. Here, however, there is a direct connection between the accusation and the risk which the condition seeks to guard against. The case concerns alleged fraudulent procurement and use of an Indian passport for foreign travel; the investigation is incomplete; and the Petitioner now seeks permission to leave India for six months for the very country where she has been granted asylum and has lawful residence until 2029. Once she resumes residence there, securing her presence would no longer remain entirely within the immediate control of the criminal court. In these circumstances, the apprehension of non-return cannot be characterised as remote or speculative.

24. The medical considerations deserve a separate word. *Parmanand Katara* recognises the obligation to protect life and ensure timely medical care. *Suchita Srivastava* recognises reproductive autonomy as an important dimension of personal liberty. Neither proposition is in doubt. But neither

[10] (2019) 9 SCC 24

decision lays down that an accused facing criminal proceedings acquires a right to receive such care in a foreign country of her choice. Significantly, no medical opinion placed before this Court states that the treatment required by the Petitioner is unavailable in India, that delivery in the United Kingdom is medically necessary, or that her present condition requires treatment which cannot adequately be provided here. Nor is there, on the present record, a certificate declaring her fit to undertake a long international flight notwithstanding what is described as a high-risk twin pregnancy.

25. Neither *Suresh Nanda* nor *Sunderbhai Ambalal Desai* advances the Petitioner's case. *Suresh Nanda* concerns the authority to impound a passport and holds that the police cannot invoke the general provisions of the Code to exercise a power specifically vested by the Passports Act in the Passport Authority. *Sunderbhai* concerns the proper custody and prompt disposal of seized property. Neither decision treats the return of a travel document as carrying with it permission to leave India. That distinction has since been expressly affirmed in *Seesa Santosh*.

26. In the present case, the release of the Convention Travel Document has been sought substantially to facilitate the proposed journey. Since permission to travel is being declined and investigation into the Petitioner's identity and travel history remains ongoing, the Court is not persuaded to direct its release at this stage. This should not, however, be read as permitting its indefinite retention merely as a substitute for a restraint on travel. Upon completion of the investigation, or when the document is no longer required for investigative purposes, it will be open to the Petitioner to seek its return before the competent Court, which shall consider that question independently and in accordance with law.

27. The reliance upon Sections 355 and 530 BNSS also does not resolve the difficulty. The facility of appearance through electronic means cannot be treated as an assurance of availability to the criminal process. The investigation itself is still underway and the Court may, at different stages, legitimately require the Petitioner's physical presence. Nor does the fact that her tourist visa has expired assist her. Liability or obligations under the Foreigners Act and the Court's power to secure the presence of an accused in criminal proceedings operate in different fields. Counsel's further offer to furnish an FDR does not sufficiently address the concern either. Monetary security may attach a financial consequence to non-return; it cannot secure the Petitioner's physical availability once she is outside Indian jurisdiction. In the particular circumstances of this case, an FDR, whatever its amount, is not an adequate substitute for the safeguard presently imposed.

28. There is also no contradiction between admitting the Petitioner to bail and declining permission to travel. Bail protects her liberty against unnecessary incarceration. Permission to leave the country raises a different question: whether her presence can reasonably be secured while the criminal process continues. The former does not necessarily answer the latter.

29. Viewed cumulatively, the nature of the allegation and its direct connection with identity documents and international travel, the *prima facie* material collected, the continuing investigation, the unrecovered Indian passport, the six-month period for which travel is sought, and the Petitioner's settled residence in the United Kingdom leave no ground to interfere with the Trial Court's conclusion. At this stage, the restriction remains necessary to secure her availability for the investigation and the criminal proceedings.

30. The Court is, however, acutely conscious that the Petitioner is carrying twins and has placed on record a history of medical complications. The refusal of permission to travel must not impede the care that she and the unborn children require. The SHO and the Investigating Officer shall therefore ensure that the investigation does not obstruct or delay her access to appropriate antenatal, diabetic, or other medical treatment. Should she seek treatment at a Government tertiary-care hospital in Delhi, the State shall facilitate it promptly. Her physical attendance before the Investigating Officer shall be required with due regard to medical advice and, unless an urgent investigative need dictates otherwise, only upon reasonable prior notice.

31. The Investigating Agency shall, at the same time, make every endeavour to complete the pending investigation expeditiously.

32. The petition is accordingly dismissed, along with the pending applications, if any.

33. It is clarified that the observations contained in this order are confined to the present request for foreign travel and shall have no bearing on the investigation, consideration of charge, or trial.

SANJEEV NARULA, J

SEPTEMBER 24, 2026/ab