



2026:AHC:54790

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 524 of 2026

Harshit Vaish

.....Revisionist(s)

Versus

State of U.P. and another

.....Opposite Party(s)

Counsel for Revisionist(s)	: Rishabh Srivastava, Srijan Pandey
Counsel for Opposite Party(s)	: G.A.

A.F.R.

In Chamber

Reserved on 13.02.2026

Delivered on 18.03.2026

HON'BLE GARIMA PRASHAD, J.

1. Heard Srijan Pandey, learned counsel for the revisionist and learned A.G.A. for the State.
2. The present criminal revision has been filed challenging the order dated 20.11.2025 passed by the learned Additional Chief Judicial Magistrate, Prayagraj whereby the application moved by the revisionist seeking issuance of No Objection Certificate / permission in connection with issuance of passport was rejected on the ground that the criminal court does not possess jurisdiction to issue such certificate.
3. The brief facts giving rise to the present revision are that Case Crime No. 42 of 2022, under Sections 279, 337 and 338 IPC, Police Station Daraganj, District Prayagraj, was registered against the driver of the vehicle as well as the present revisionist. After

investigation, a charge-sheet dated 12.04.2024 was submitted under Sections 279, 337, 338 and 427 IPC and the proceedings are presently pending as Case No. 1336 of 2023 before the learned trial court. The revisionist joined the proceedings and had earlier been granted bail on 24.03.2022.

4. During the pendency of the criminal proceedings, the revisionist applied before the Assistant Passport Officer for issuance of a fresh passport. The Passport authority, by letter dated 03.11.2025, informed the revisionist that in view of the pendency of criminal proceedings he should obtain appropriate orders from the concerned court for the purposes of passport issuance and travel abroad. Consequently, the revisionist moved an application before the learned trial court seeking issuance of a No Objection Certificate / permission for passport issuance. The learned trial court rejected the said application by the impugned order dated 20.11.2025 primarily holding that the criminal court does not have jurisdiction to issue such No Objection Certificate and further observing that the application had been filed through counsel and not attested by the applicant himself. Aggrieved by the said order, the present revision has been filed.

5. Learned counsel for the revisionist submits that the learned trial court has misconstrued the statutory scheme under the Passports Act, 1967 and the Government of India Notification dated 25.08.1993 issued as GSR 570(E). It is contended that the said notification expressly contemplates an order from the criminal court permitting the accused to depart from India and therefore the criminal court necessarily possesses jurisdiction to consider such an application.

6. I have considered the rival submissions of the parties and perused the record.

7. Section 6(2)(f) of the Passports Act, 1967 provides that the passport authority shall refuse to issue a passport where proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India. However, the said restriction is not absolute. Under Section 22 of the Passports Act, the Central Government has been empowered to grant exemptions from the operation of the Act. In exercise of the said power, the Central Government issued Notification GSR 570(E) dated 25.08.1993 whereby persons against whom criminal proceedings are pending may be issued passports provided they produce an order from the court concerned permitting them to depart from India. The notification further provides that if the court specifies the period for which the passport may be issued, the passport shall be issued accordingly and if no such period is specified, the passport may ordinarily be issued for a limited duration, generally one year.

8. The Supreme Court in *Vangala Kasturi Rangacharyulu v. CBI 2021 SCC OnLine SC 3549* has held that pendency of criminal proceedings cannot operate as an absolute bar to issuance or renewal of passport and that the statutory scheme of the Passports Act must be read together with the exemption notification issued by the Central Government. The Court recognised that the right to travel abroad forms part of the personal liberty guaranteed under Article 21 of the Constitution and that such right may be regulated only in accordance with law.

9. The legal position has also been considered by this Court in *Basoo Yadav v. Union of India and others 2022 SCC OnLine All 849* and subsequently in *Pawan Kumar Rajbhar v. Union of India and others* (Neutral Citation No.2024:AHC:9963-DB). In the aforesaid decisions, this Court observed that while Section 6(2)(f)

of the Passports Act empowers the passport authority to refuse issuance of passport where criminal proceedings are pending, the said restriction operates subject to the exemption granted by the Central Government under Notification dated 25.08.1993. It was further observed that where appropriate orders of the court concerned are produced in terms of the said notification, the passport authority ought to process the application in accordance with law and should not reject such applications outright.

10. A significant recent development in this regard is the issuance of an Office Memorandum dated 06.12.2024 by the Ministry of External Affairs, Passport Policy Division, which clarifies the procedure to be followed where criminal proceedings are pending against an applicant seeking issuance or renewal of passport. The said Office Memorandum is reproduced below:

“No.VI/405/04/08/2024
Government of India
Ministry of External Affairs
(PSP Division)

Patiala House Annexes, Tilak Marg
New Delhi 6th December 2024

OFFICE MEMORANDUM

Subject: Processing of the passport applications of the applicants having pending criminal case/ proceedings

1. A number of references are being received regarding issuance of passports to applicants having pending criminal cases/on going criminal proceedings. To simplify processing of such applications a circular was issued on 21st August 2014 prescribing specific guidelines to attend such cases. Considering the receipt of significant number of such cases and to maintain uniformity in attending all such cases by various PIAs, a need is felt to reiterate these guidelines.
2. The passport Act 1967 (the Act) was enacted by the Parliament to regulate the issuance of passports. Section 6 of the Act, clearly defined the grounds on which passport or travel document can be refused to an applicant. Further, Section 6(2)(f) of the Act particularly specifies that Passport Authority shall refuse to issue a passport or travel document for visiting any foreign country in case proceedings in respect of an

offence alleged to have been committed by the applicant are pending before a criminal court in India.

3. Section 22 of the Act stipulates that “*where the Central Government is of the opinion that it is necessary or expedient in the public interest as 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 provision of the 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.*”

4. The Central Government exercising the power conferred by Section 22 of the Passports Act, 1967 published the Official Gazette (GSR 570(E) dated 25.08.1993) exempted citizens of India who are facing criminal proceedings, from the operation of Section 6(2)(f) of the Act, subject to the following conditions:-

(I) who produce orders from the court concerned permitting them to depart from India:

(II) Passport validity of such passport applications: (a) For the period specified in order of the court (b) if no period for the issue of the passport or for the travel abroad is specified, the passport shall be issued for a period of one year (c) if such order gives permission to travel abroad for a period less than one year, but does specify the period validity of passport shall be issued for one year (d) if such order gives permission to travel abroad for a period exceeding one year, the passport shall be issued for the period of travel abroad specified in the order.

(III) The said citizen given an undertaking in writing to the Passport Issuing Authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport as issued.

5. The said Gazette Notification is available on the passport portal and can be seen at <https://passportindia.gov.in/> - Passport Act and Rules Notifications – Issue of Passport during pendency of Criminal Case.

6. As prescribed at para 4(iii) above and in GSR 570(E), such applicant is required to submit permission of the Court concerned to depart from India as well as an undertaking in writing on plain paper. The platform of undertaking can be seen at <https://passportindia.gov.in> – Forms and Affidavit – Undertaking as per GSR 570(E).

7. Whenever any applicant against who proceedings before a criminal court is pending, approaches any PIA for the passport services, a copy of Gazette notification and undertaking performa can be provided to him/her to fulfil the requirements prescribed in the Gazette

Notification. On submission of the same, as outlined at Para 4(i) & 5 above, his/her passport application may be processed as per the provision of the GSR 570(E) dated 25.08.1993.

8. It may be noted that here is no such provision for seeking permission/NOC from the court concerned for issuance of passport, instead it is permission to depart from India. In case the applicant is unable to provide the prescribed documents. PIA may issue a refusal order under Section 6 of the Passports Act, 1967 prescribing provision for appeal.

9. If there is a court order prohibiting the departure of applicant from India, PIA may issue refusal order accordingly, as prescribed under Section 6(2)(g) of the Passports Act, 1967. Needless to mention that the other documents/ requirement as applicable to other passport applicants are also required to be sought.

(Dr. K. J. Srinivasa)
Joint Secretary (PSP) &
Chief Passport Officer
Tel: 23387013

To: All Passport Issuing Authorities in India”

11. The clarification contained in the aforesaid Office Memorandum indicates that there is no statutory requirement of a general “No Objection Certificate” from the criminal court merely for issuance or renewal of passport. However, where criminal proceedings are pending, the exemption under Notification GSR 570(E) becomes applicable only when the applicant produces an order of the concerned court permitting departure from India.

12. The aforesaid statutory framework and the clarification issued by the Ministry of External Affairs came up for detailed consideration before the Delhi High Court in ***Mukul Mittal v. Union of India*** (W.P.(C) 6612 of 2025 and connected matters) decided on 02.02.2026. It was held that the requirement under the 1993 notification is not a mere NOC for passport issuance but an order of the criminal court permitting the applicant to depart from India. It was further observed that the criminal court where the proceedings are pending is the appropriate forum to consider

whether such permission may be granted and, if so, subject to what conditions.

13. In view of the statutory framework under the Passports Act, the exemption granted by Notification GSR 570(E) dated 25.08.1993, the clarification issued by the Ministry of External Affairs dated 06.12.2024, and the interpretation placed upon the same by the Delhi High Court in *Mukul Mittal v. Union of India*, it is evident that the criminal court where the proceedings are pending possesses jurisdiction to consider an application by the accused seeking permission to depart from India. Such permission may be granted subject to appropriate safeguards to ensure that the presence of the accused during the course of trial is not jeopardised.

14. The impugned order dated 20.11.2025 indicates that the learned trial court rejected the application solely on the ground that it lacks jurisdiction to issue a No Objection Certificate. Such reasoning proceeds on an erroneous understanding of the statutory scheme and cannot be sustained in law. The criminal court is clearly empowered to examine whether the accused may be permitted to depart from India and to specify the conditions or duration of such permission.

15. In view of the above discussion, the impugned order dated 20.11.2025 passed by the learned Additional Chief Judicial Magistrate, Prayagraj cannot be sustained and is liable to be set aside.

16. Accordingly, the impugned order dated 20.11.2025 is set aside and the matter is remanded to the learned trial court to reconsider the application of the revisionist. The learned trial court shall examine the application from the perspective of grant of permission to depart from India, keeping in view the provisions of the Passports Act, 1967, Notification GSR 570(E) dated 25.08.1993, the

Office Memorandum dated 06.12.2024 issued by the Ministry of External Affairs, and the principles laid down in *Vangala Kasturi Rangacharyulu (supra)*.

17. While considering the application, the learned trial court may grant or refuse permission for the revisionist to travel abroad and, if such permission is granted, it may specify the period for which such travel may be permitted subject to such conditions as may be necessary to ensure the presence of the revisionist during the trial. In the event the learned trial court grants permission but does not specify the validity period, the passport authority shall act in accordance with Notification GSR 570(E) dated 25.08.1993 which provides that the passport may ordinarily be issued for a period not exceeding one year.

18. The learned trial court shall decide the application expeditiously, preferably within four weeks from the date a certified copy of this order is placed before it.

19. The revision is allowed to the extent indicated above.

(Garima Prashad,J.)

March 18, 2026

Sachin Mishra