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**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

APPLICATION U/S 482 No. - 6200 of 2025

Ms. Sapna @ Sapna Choudhary

.... applicant

Versus

State Of U.P. Thru. Prin. Secy. Home Lko. And Another

....Respondents

Counsel for Petitioner(s) : Keshav Prasad, Anurag Pratap Singh, Ms.
Preeti Singh, Radha Gautam

Counsel for Respondent(s) : G.A.

Court No.12

HON'BLE PANKAJ BHATIA, J.

J U D G M E N T

1. Heard Ms. Preeti Singh, learned Counsel for the applicant as well as learned A.G.A. and Sri S.B. Pandey, learned Senior Advocate and DSGI assisted by Sri Varun Pandey, learned Counsel for the opposite parties no. 3 and 4.

2. The present application has been filed under Section 482 of Cr.P.C. challenging an order dated 30.06.2025, whereby the request of the application for grant of NOC for renewal of the passport and permit the applicant to travel abroad was rejected mainly on the ground that the applicant has not filed any document relevant for seeking the permission from the court to travel abroad like the specific period of travel, the country to which the applicant wishes to travel or for any other purpose.

3. In the light of the aforesaid, the counsel for the applicant argues that the applicant is a stage performer and performs throughout the territory of India and also outside India in various stage shows in which the applicant is invited. It is argued that in respect of a performance, which was scheduled to be held at Lucknow, in which, the applicant was to perform, however, the said show was cancelled, which led to lodging of an FIR with Case Crime No.621 of 2018, under Sections 406, 420 IPC, Police Station Ashiyana, District Lucknow. The applicant was enlarged on bail vide order, which is on record, in which, no condition was imposed by the court below with regard to the applicant not leaving the country without the permission of the Court. It is argued that in view of the pendency of the said case, the applicant was required to furnish an NOC from the trial court concerned in terms of the office memorandum issued under the Passports Act and the impugned order came to be passed.

4. The Counsel for the applicant further argues that the applicant receives offer for performance outside India, however, generally the conditions are that the applicant should have valid travel passport failing which the applicant is not likely to be offered any assignment for performance outside India. It is further argued that the case registered against the applicant through Case Crime No.621 of 2018 does not even directly implicate the applicant as the applicant was stated to perform as stage performer and the cancellation was beyond the powers of the applicant. It is further argued that in view of the denial of the NOC not only deprive from passport to travel abroad guaranteed under Article 21 of the Constitution of India but also violates the rights of the applicant's to earn livelihood. It is also argued that the applicant has two children and substantial property within India and no material exists to suggest that the applicant would be at flight risk.

5. As regards the status of the pendency of the case, it is argued that there is no material to suggest that the case is proceeding and there is no likelihood to be concluded in near future, thus, it is argued that the impugned order deserves to be set aside and/ or directions be issued for renewal of the passport for a regular term of ten years on whatever condition this court deems fit being imposed so that the rights enshrined to the applicant are not adversely affected.

6. The Counsel for the Union of India, in the light of the provisions contained in the Passports Act, argues that there is no independent right of renewal of a passport vested and is subject to the restrictions contained in Section 6(2) of the Passports Act. It is argued that in terms of the directions issued by various courts, severity of the conditions prescribed under Section 6(2) of the Passports Act were liberalized and curtailed through office memorandums issued by the Union of India vide Notification dated 25.08.1993 and further clarified vide Notification dated 10.10.2019. It is argued that in the light of the said office memorandums, the application of the applicant has been rightly rejected by the court below and no interference is called for.

7. In rejoinder, the Counsel for the applicant draws my attention to the two earlier orders passed by this Court for consideration of the application of the applicant for renewal/ re-issuance of the passport vide separate orders. It is further argued that in view of the prevailing global scenario, the organizers occasionally insists that the performer and the team should have valid passport and thus, it may not always be possible to furnish the requisite documents at a prior point of time. It is further argued that the case pending against the applicant is of the year 2018, no material exists to demonstrate that the case likely to be concluded in near future. There are no specific allegation against the applicant even in the said FIR. Even

the bail granted to the applicant does not impose any condition of not leaving India.

8. Considering the need of the applicant to travel abroad for performing to various countries, *prima facie*, no material exists to suggest that the applicant would be at flight risk or that her application for re-issuance/ renewal of the passport should not be considered in view of absence any adverse conduct of the applicant. The case of the applicant is pending since 2018, clearly on account of non-issuance/ non-grant of passport her rights are infringed merely because no documents have been filed, the request for travel abroad cannot be denied as has been done in the impugned order.

9. It is further argued that the order impugned dated 30.06.2025 is violative of Article 21 and Article 19 as well as contrary to the mandate of the Government Orders as well as the Office Memorandum, the same cannot be sustained and be set aside.

10. The issue with regard to the right of having a passport was duly considered by the Hon'ble Supreme Court in the case of ***Mahesh Kumar Agarwal vs Union of India and another: 2025 INSC 1476***, wherein, following observations were made:

“2. Liberty, in our constitutional scheme, is not a gift of the State but its first obligation. The freedom of a citizen to move, to travel, to pursue livelihood and opportunity, subject to law, is an essential part of the guarantee under Article 21 of the Constitution of India. The State may, where statute so provides, regulate or restrain that freedom in the interests of justice, security or public order but such restraint must be narrowly confined to what is necessary, proportionate to the object sought to be achieved, and clearly anchored in law. When procedural safeguards are converted into rigid barriers,

or temporary disabilities are allowed to harden into indefinite exclusions, the balance between the power of the State and the dignity of the individual is disturbed, and the promise of the Constitution is put at risk.

8. From a conjoint reading of Sections 5, 6, 7 and 8 of the Passports Act, a structured scheme emerges. Section 5 is the starting point. It prescribes the manner in which an application for a passport is to be made and requires the passport authority, subject to the other provisions of the Act, to decide the application by issuing or refusing the passport through a written order. Section 6 qualifies that power and sets out, in an exhaustive manner, the grounds on which the passport authority shall refuse to issue a passport or travel document. Sub-section (1) deals with refusal of endorsements for particular countries. Sub-section (2) governs refusal of issue itself and again begins with the words “subject to the other provisions of this Act”. It obliges the authority to refuse issue where any of the situations in clauses (a) to (i) are present, including the pendency of criminal proceedings before a court in India under clause (f). Section 7 then addresses the duration of a passport. It provides that a passport shall continue in force for such period as may be prescribed, but also permits the authority, for reasons to be communicated in writing to the applicant, to issue a passport for a shorter period in an appropriate case. Section 8 deals with the converse situation where a passport has already been issued for a shorter period. It permits extension of such a passport, but expressly states that the provisions of the Act shall apply to such extension as they apply to the issue of the passport, thereby linking an extension back to the same statutory conditions and limitations that govern original issue under Sections 5 and 6.

9. Sections 9, 10 and 22 reinforce and complete this framework. Section 9 enables the Central Government, by rules, to prescribe the conditions subject to which and the form in which a passport shall be issued or renewed. It also permits, with prior approval of the Central Government, the imposition of case-specific conditions in addition to the

prescribed ones. Section 10 operates at a later stage and deals with the life of a passport after it has been issued. It empowers the passport authority, in defined situations, to require production of the passport and to impound or revoke it. One such situation, under Section 10(3)(e), is where proceedings in respect of an offence alleged to have been committed by the holder are pending before a criminal court in India. Section 22 then confers on the Central Government the power, where it considers it necessary or expedient in the public interest, to exempt any person or class of persons from the operation of specified provisions of the Act or the Rules, subject to conditions. It is in exercise of this power that GSR 570(E) was issued, creating a controlled exemption from the bar in Section 6(2)(f) in favour of persons facing criminal proceedings who obtain permission from the concerned court and comply with the conditions set out in that notification.

10. On a plain reading, GSR 570(E) does two things. First, it recognises that persons facing criminal proceedings are not to be treated as absolutely disentitled to a passport. Instead, it permits such persons to obtain a passport, notwithstanding Section 6(2)(f), where the concerned criminal court has applied its mind and passed an order in relation to issuance or use of the passport and where the applicant furnishes an undertaking to appear before the court as and when required. Secondly, it structures the exercise of that exemption by tying the validity and use of the passport to the terms of the court's order. Thus, where the court specifies a period for which the passport is to be issued, the passport authority must honour that period. Where the court does not stipulate any period, the notification provides default rules, including issuance for a shorter period, ordinarily one year, in appropriate cases. What the notification does not do is to create a new substantive bar beyond Section 6(2)(f), or to insist that the criminal court must, in every case, grant a prior blanket permission to "depart from India" for specified dates as a jurisdictional precondition to the very issue or re-issue of a passport.

11. The OM dated 10.10.2019 does not create a new regime. It reiterates that GSR 570(E) must be “strictly applied”, explains the procedure where criminal cases are pending and makes it clear that a “no objection certificate” or permission from the criminal court, read with the applicant’s undertaking, may override an adverse police report with reasons recorded by the Passport Officer. It also contemplates situations where more than one court is dealing with the matter and indicates that the orders of all such courts are to be read together. The OM is thus an administrative restatement of the position under Section 6(2)(f), Section 22 and GSR 570(E), and cannot add to or cut down the exemption which the notification itself grants.

18. There is yet another aspect. The learned Single Judge treated the subsisting conviction in the Delhi case as an additional reason to sustain refusal under Section 6(2)(f). However, this Court in Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation 2021 SCC OnLine SC 3549 has already drawn a clear distinction between an accused “facing trial in a criminal court” and a person who has been convicted and is pursuing an appeal and how the same can impact the issuance of a passport. The relevant paras of this judgement are as follows:

“7. The refusal of a passport can be only in case where an applicant is convicted during the period of 5 years immediately proceeding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years.

8. Section 6 2(f) relates to a situation where the applicant is facing trial in a criminal court.

9. Admittedly, at present, the conviction of the appellant stands still the disposal of the criminal appeal. The sentence which he has to undergo is for a period of one year. The passport authority cannot

refuse the renewal of the passport on the ground of pendency of the criminal appeal.

10. The passport authority is directed to renew the passport of the applicant without raising the objection relating to the pendency of the criminal appeal in this Court. Subject to the other conditions being fulfilled, the Interlocutory Application stands disposed of.”

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 recognised 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 authorised 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."

11. On the interpretation of the provisions of the Office Memorandum as well as the provisions of the Passports Act, it is clear that the issuance of passport and the conditions to not leave the country without the permission of a court are two distinct things. In the present case even in the bail order, no such restrictions has been placed upon the applicant for travelling abroad, thus, on the reasoning and the law laid down in the case of Mahesh Kumar Agarwal (Supra), the impugned order cannot be justified.

12. The order impugned is premised on the foundation that any restrictions were placed on the rights of the applicant to travel abroad

whereas no such restrictions appeared to be placed upon the applicant even in the bail order, as such, the order impugned dated 30.06.2025 is quashed.

13. Directions are issued to the trial court to issue an NOC to the applicant for grant of passport which shall be processed for normal period of 10 years.

14. It shall however be open to the prosecution to seek variance of the condition of the bail order, if so desired based upon the contingencies that may be pleaded by the prosecution in the pending case.

15. It is clarified that the passport of the applicant shall be renewed for a period of ten years in accordance with law by the passport authority.

16. The application stands *allowed*.

17. This Court records its appreciation for the assistance provided by Ms. Rajshree Lakshmi, Research Associate/ Law Clerk in deciding the present case.

Date:07.01.2026
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[Pankaj Bhatia, J.]