



2026:AHC:124815

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 21449 of 2026

Dr Satyaketu Jaiswal And Another

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Ashutosh Kumar Pandey
Counsel for Opposite Party(s) : Alok Ranjan Mishra, G.A.

Court No. - 32

HON'BLE SANJAY KUMAR PACHORI, J.

1. Heard Sri Ashutosh Kumar Pandey, learned counsel for the applicants, Sri Alok Ranjan Mishra, learned counsel for opposite party no. 3 and Sri M. K. Singh, learned A.G.A. for the State and perused the materials on record.
2. The present application U/S 528 of BNSS has been filed to quash the order dated 10.04.2026 passed by Civil (J.D.)/FTC-I/Judicial Magistrate, Chandauli, whereby an application to grant permission/No Objection Certificate for issuance of passport to the applicants has been dismissed.
3. Learned counsel for the applicants submits that the impugned order has been passed without considering the facts, circumstances of the case and without considering notification and guidelines, which has been issued by the Central Government with regard to permission to go abroad in the situation when the case (s) is/are registered against the petitioner.
4. It is further submitted that the applicants filed an application before the Civil Judge(J.D.) FTC Ist/Judicial Magistrate, Chandauli with a prayer to grant permission for issuance his passport but due to pendency of the aforesaid case being Case No. 3681 of 2018, under Sections 406, 504, 506 the Regional Passport Officer denied to issue the Passport in his favour.

5. The petitioners are simple, social and educated persons. They want to go to out of country with regard to Seminar and "Sangoshthi" for better management of their Institution. They have been falsely implicated by the police in the aforesaid case, the proceedings of which have been stayed by a Co-ordinate Bench of this Court in Application U/S 482 No. 30368 of 2018 vide order dated 19.09.2018.

6. Learned counsel for the Union of India as well as learned A.G.A. have not denied the factual position and admitted that there no other document remains to be filed.

7. Learned counsel for the applicants relied upon the judgement of this Court in **Salim Khan Vs. Union of India and others, 2019 (132) All Law Report 286 (D.B.)** in which Co-ordinate Bench of this Court has permitted the petitioner to move an application for grant of permission to go abroad, before the court concerned where the criminal proceeding was pending and if permission is granted then the petitioner shall be given liberty to produce before Passport Officer along with the permission granted by the court for issuance of passport. The relevant part of the order of Bench of this Court is quoted hereinbelow:

"The argument that Section 6(2)(f) was arbitrary and unreasonable was repelled, however, considering the Notification dated 25.08.1993 quoted hereinabove it was held that the restriction under Section 6(2)(f) was not absolute but the same can be relaxed in appropriate cases with the permission of the Court in which the criminal proceedings are pending. The Court in fact held that the object behind the aforesaid provisions appeared to be that permitting a person facing criminal charges to go abroad was against the interest of the State and Society at large, however, as already mentioned hereinabove in view of the Notification dated 25.08.1993 it was held that the restriction was not absolute.

In this view of the matter, we are of the view that the

petitioner should move an appropriate application before the Court of criminal jurisdiction where the trial is pending against him seeking permission to go abroad. If such permission is granted then the petitioner may move appropriate application before the competent Authority of the Passport department of the Government of India citing the judgment referred hereinabove as also the Notification dated 25.08.1993 for issuance of a Passport which shall be considered accordingly in the light of the law on the subject."

8. In the light of the above judgment, it is submitted by the learned counsel for the applicants that the order impugned passed by Civil Judge(J.D.) FTC Ist/Judicial Magistrate, Chandauli is bad in the eye of law.

9. The Govt. of India has promulgated a notification no. GSRS70(E). The guidelines of the said notification are quoted herein below:-

"G.S.R. 570(E). - In exercise of the powers conferred by clause (a) of section 22 of the Passports Act, 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs no. G.S.R.298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts 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 produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:-

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

(i) for the period specified in order of the court referred to

above, if the court specifies a period for which the passport has to be issued; or

(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 one year,

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of a(ii) and a(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of a(i) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give 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 so issued.

[No.VI/401/37/79] L.K. PONAPPA, Jt. Secy. (CPV)"

The provisions of Section 22 of the Act, 1967 read as under:-

"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."

10. Learned counsel for the applicants submits that prima-facie reasons mentioned by the trial court are strange. The case is pending since 2018. It is made clear that Passport Authority has refused to submit the report due to the above mentioned case being pending against the applicants. It has been noticed that there are increasing number of references being received regarding passport applications. The Ministry has issued a notification wherein several reliance and instructions have been mentioned.

11. Learned counsel for the applicants relied upon the judgment of Apex Court in **Maneka Gandhi Vs. Union of India (1978) AIR SC 597**, wherein the Supreme Court has held that having passport is a fundamental right of the citizen of India and a citizen can not be deprived of such fundamental right. It has been further observed that for issuance of passport a declaration has to be made by the applicants that the applicants have not been convicted by any Court of Law in India for any criminal offence and has not been sentenced to imprisonment for two years or more than two years with other relevant information. It is not in dispute that the applicants is not a previously convict.

12. I have gone through the impugned order and other relevant materials. The applicants are an accused of Case No. 3681 of 2018, arising out of Case Crime No. 624 of 2017, under Sections 406, 504, 506 IPC, P.S. Mughal Sarai, District Chandauli. As per notification dated 25.8.1993, it was held that the restriction was not absolute.

13. In view of the facts and position of law enumerated under Articles 19(1)(d) and 21 of the Constitution of India and law laid down in **Maneka Gandhi** (Supra), the order dated 10.04.2026 is liable to be quashed.

14. In view of above facts, circumstances and keeping in mind the position of law the present petition is allowed and the order impugned dated 10.04.2026 is hereby quashed and permission is granted to the applicants to obtain passport.

15. The Regional Passport Authority, Lucknow is directed to issue passport to the applicants forthwith as per Rules.

June 2, 2026

MAA/-

(Sanjay Kumar Pachori,J.)