



2026:AHC:125799

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 23566 of 2026

Jai Prakash Singh

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Rajeev Kumar Singh
Counsel for Opposite Party(s)	:	G.A.

Court No. - 32

HON'BLE SANJAY KUMAR PACHORI, J.

1. Heard Sri Rajeev Kumar Singh, learned counsel for the applicants and Sri M.K. Singh, learned A.G.A. for the State.
2. The present application under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 has been filed by the applicants to quash the order dated 09.03.2026, passed by Additional Civil Judge (Junior Division), Court No.6, Gorakhpur in Criminal Condition No.(1) in Misc. Application No. 2344 of 2026, filed in Criminal Case No.1600 of 2011, arising out of Case Crime No.847 of 2010, under Sections 147, 341, 504, 282, 506 and 7 Criminal Law (Amendment) Act, Police Station- Gagaha, District- Gorakhpur, whereby the trial court has rejected the application of the applicant with regard to issuance of Passport.
3. Brief facts of the case are that the applicant is a passport holder, being Passport No.P5131175, which has been issued on 27.10.2016 after making all the necessary verification by the concerned authority. The applicant applied for renewal of the aforesaid passport but the condition no. 1 whereby directed to the concerned passport authority to issue passport in favour of the applicant for one year only.
4. Learned counsel for the applicant submits that impugned orders has been passed without considering the facts and circumstances of the case and position of law.
5. 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."

6. Learned counsel for the applicant submits that prima-facie reasons mentioned by the trial court are strange. The case is pending since 2010. It is made clear that Passport Authority has refused to submit the report due to the above mentioned case being pending against the applicant. 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.

7. Learned counsel for the applicant 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 applicant that the applicant has 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 applicant is not a previously convict.

8. 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 condition no. 1 is imposed in the order dated 09.03.2026 is hereby quashed.

9. The present application is, accordingly, **allowed**.

June 5, 2026

Ishan

(Sanjay Kumar Pachori,J.)