



2026:AHC:71698

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 35936 of 2025

Liyaqat Ali

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Aushim Luthra, Utkarshni Singh
Counsel for Opposite Party(s)	:	G.A., Sanjay Dwivedi

Court No. - 83

HON'BLE SANJIV KUMAR, J.

Order on Impleadment Application No. 02 of 2026

1. Heard Shri Aushim Luthra, learned Counsel for the applicant, Shri Sanjay Dwivedi, learned Counsel for the Union of India and Shri Om Prakash Mishra, learned A.G.A on behalf of the State and perused the record.
2. Impleadment application has been filed on behalf of learned counsel for applicant, to implead Union of India through Foreign Secretary, Ministry of External Affairs as opposite party no.3 and Regional Passport Officer, Regional Passport Office, Ghaziabad as opposite party no.4.
3. Learned A.G.A. has no objection to it.
4. In view of the above, the impleadment application is allowed.
5. Let necessary impleadment be incorporated, in the Application U/s 528 B.N.S.S., by the learned counsel for applicant during the course of the day.

Order on Application U/S 528 BNSS

6. This application has been filed under Section 528 BNSS by the applicant to quash the impugned order dated 04.12.2024 passed by learned Judicial Magistrate, Court No.2, Saharanpur in Case No.1965 of 2023 (State Vs. Liyaqat Ali and Others) arising out of Case Crime No.116 of 2020 under Sections- 406, 420 and 506 IPC, Police Station-Chilkana, District-Saharanpur.
7. By impugned order, the learned Magistrate has rejected application of the applicant/ accused for giving no objection certificate for renewal of his

passport.

8. Brief facts of the case are that an FIR under Sections- 406, 420 and 506 IPC was lodged against the applicant and others, in which after investigation charge-sheet was filed before the concerned court. The accused were summoned and the aforesaid case is at the stage of framing of charge. The applicant/accused Liyaqat Ali is on bail.

9. Earlier the passport No.P0831009 dated 02.08.2016 was issued to him, which has been lost and information in this regard was provided to the concerned passport officer and thereafter, he applied for renewal of passport. Thereupon, a report has been sought from Police Station- Chilkana in which the detail of this case was furnished. The applicant needs passport for Umra/ Haj. His mother Smt. Haseena, 72 years old women, has to go for Umra/ Haj and passport No.B9069557 has been issued in her name. The applicant has to accompany his mother for Umra/ Haj, therefore, he needs no objection certificate from the court for renewal of passport No.Z7401414.

10. Upon this application, the concerned court sought report from assistant prosecution Officer (APO), who opposed and reported that the present case is pending before the court and charge has not been framed. It is every possibility that in case the passport of the applicant is renewed then he would go abroad and would not attend the court in this case.

11. After hearing, the learned Magistrate observed that the applicant/accused has been charge-sheeted for offence of cheating and forgery and charge has not yet been framed. Under these circumstances, if the applicant/accused goes abroad then the disposal of the case may be delayed. It is also observed by the concerned court that while granting anticipatory bail to the applicant/accused, the Sessions Court has imposed several conditions and one of the condition imposed was that the applicant/accused would surrender his passport before Senior Superintendent of Police, Saharanpur.

12. Under these circumstances, the application for grant of no objection, for renewal of passport, was rejected.

13. It is submitted on behalf of the applicant that he has complied with all the conditions of bail and has surrendered his passport, now for religious pilgrimage he wants to go to the holy city of Mecca, alongwith his mother and in this regard he had filed an application for seeking no objection certificate of the court, which the court has rejected, stating that charges have not yet been framed. It is also submitted that after the rejection of the application, nine months have passed and till date charges have not yet been framed and due to the pendency of the above criminal case the passport

authorities have asked the applicant to get an NOC for issuance of fresh passport. Therefore, the applicant has moved an application for NOC/renewal of passport which is pending before the passport authorities. It is further submitted that his right to religion is being violated by the impugned order. He shall not misuse the liberty of bail, therefore, rejection of the request for grant of no objection for renewal of passport is nothing but an abuse of process of law.

14. Learned A.G.A on behalf of the State has opposed the application and Shri Sanjay Dwivedi, learned Counsel for the Union of India has opposed by contending that the criminal case is pending against the applicant but has conceded that, after framing of charge the concerned court may consider for grant of no objection certificate for renewal of passport of the applicant.

15. Learned counsel for the applicant has placed reliance upon order dated 27.09.2021 passed by Hon'ble Supreme Court in **Vangala Kasturi Rangacharyulu V/s. Central Bureau of Investigation (IA 52346/2021 in Criminal Appeal No(s). 1343/2017)**, wherein, Hon'ble Court has held that the passport authority cannot refuse the renewal of the passport on the ground of pendency of the criminal appeal. For ready reference, the relevant portion of the order dated 27.09.2021 is reproduced herein below:-

"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.

Section 6.2 (f) relates to a situation where the applicant is facing trial in a criminal court.

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.

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."

16. The reasons for rejection of an application for the issuing of a passport had been enumerated in section 6 of the Passports Act, 1967 (hereinafter referred to as the "Passports Act"). For convenience, section 6 reproduced here as under:—

"6. Refusal of passports, travel documents. etc.—

(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of Section 5 on any one or more of the following grounds, and on no other ground, namely.—

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country;

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of Section 5 on any one or more of the following grounds, and on no other ground, namely:—

(a) that the applicant is not a citizen of India;

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;

(c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;

(g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest."

17. Learned A.G.A. has submitted that with regard to pendency of criminal cases, section 6 (2)(e) and (f) of the Passports Act were relevant. He has further submitted that the issuance of a passport could be refused under section 6(2)(e) of the Passports Act, if in the five years immediately preceding the date of the application, the applicant had been convicted by a Court in India for any offence involving moral turpitude and sentenced in

respect thereof to imprisonment for not less than two years. He next submitted that relying upon section 6(2)(f) of the Passports Act stated that if proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India then also the passport application could be rejected. However, learned A.G.A has submitted that as per the notification gazetted on 25.8.1993 which was issued under section 22 of the Passports Act by the Government of India, Ministry of External Affairs, passports could be issued in certain circumstances even while a criminal case was pending if there were orders of the Court. Since, learned A.G.A. brought to the notice of the Court the Government Order dated 25.8.1993, the same is being reproduced here as under:—

"GOVERNMENT OF INDIA MINISTRY OF EXTERNAL AFFAIRS

NOTIFICATION

New Delhi, the 25 th August, 1993 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 14 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."

18. In this connection, the provisions of Section 22 of the Passports Act are also relevant which 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."

19. A perusal of the impugned order shows that the Magistrate has not applied his judicial mind properly and adopted too narrow approach while rejecting the application of the applicant. It is mentioned in the order that the applicant has not disclosed the time when he wants to go with his mother for religious purpose, i.e., Haj Yatra to Mecca, though the applicant has stated in his application that he wants to go for Haj Yatra to Mecca, and it is well known that generally Haj Yatra takes place in a particular month of each year. Even the court could have sought clarification from the applicant with regard to the time when he wants to proceed abroad. Therefore, the refusal on this ground is unreasonable. So far as the pendency of this criminal case is concerned, even after refusal of NOC, many months have passed and charges have not yet been framed which gives impression that it may take long time for conclusion of this trial. The concerned court can impose reasonable conditions upon the applicant so that, the conclusion of trial does not take long time. In view of the above, this Court is of the opinion that the ground for rejection of an application for grant of no objection by the court for renewal of passport of the applicant are unreasonable and not proper.

20. Accordingly, this application is **allowed in part**. The impugned order dated 04.12.2024 passed by the trial court, refusing to grant NOC for renewal of passport to the applicant, is set aside and the learned trial court is directed to decide the said application of the applicant, afresh, for grant of NOC by the court, keeping in view the observations made above, in accordance with law.

March 28, 2026
AdityaG

(Sanjiv Kumar,J.)