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Neutral Citation No. - 2025:AHC-LKO:34091-DB

High Court of Judicature at Allahabad  
(Lucknow)

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**Court No. - 2**

**Case :-** WRIT - C No. - 5133 of 2025

**Petitioner :-** Dr. Manoj Kumar Sinha

**Respondent :-** Union Of India Thru. Secy. Ministry Of External Affairs New Delhi And 2 Others

**Counsel for Petitioner :-** Nadeem Murtaza, Anjani Kumar Mishra, Sachin Srivastava

**Counsel for Respondent :-** A.S.G.I., C.S.C.

**Hon'ble Rajan Roy, J.**

**Hon'ble Om Prakash Shukla, J.**

(1) Heard Sri Nadeem Murtaza, learned counsel for the petitioner and Sri Varun Pandey, learned counsel for opposite party nos.1 and 2.

(2) After hearing the parties what comes out is that the petitioner had earlier preferred a writ petition being Writ-C No.4136 of 2023 which was disposed of on 23.05.2023 in the following terms:-

*"Heard.*

*Present writ petition has been filed with the following reliefs:-*

*"i) Issue a writ order or directions in nature of Mandamus commanding the opposite party no. 2 opposite party no. 2 to issue the Passport to the petitioners as early as possible.*

*ii) Issue the writ in the nature of Mandamus commanding the opposite party no. 3 to appropriately take action upon the application of the petitioners which have been filed by them for issuance of their passport as early as possible."*

*Admittedly, two criminal cases are pending against the petitioners. One bears Case Crime No. 80 of 2016, under Section 304 A I.P.C. wherein charge-sheet has been filed but the proceedings before the trial court have been stayed by the High Court in exercise of its*

*power under Section 482 Cr.P.C. and these proceedings before the High Court bear Case No. 1837 (482 Cr.P.C) of 2022, which are pending. Other is the Case Crime No. 446 of 2022, under Section 406 and 506. Learned counsel for the petitioners is not in a position to inform the Court as to whether this case has reached the Court or is still pending at the investigation stage.*

*Be that as it may, in view of these proceedings, we cannot issue any directions in these proceedings under Article 226 of the Constitution of India for issuance of passport.*

*As regards the proceedings pending before the High Court under Section 482 Cr.P.C., it is open for the petitioner to seek permission from the said Court in the light of the decisions rendered by this Court in the cases of WRIT - C No. - 8621 of 2022 (Shiv Shanker Vs Union of India and others) and WRIT - C No. - 3617 of 2022 (Smt. Rashmi Kapoor Vs. Union of India and others) or approach the trial court in this regard, if otherwise, permissible in law.*

*So far as the other Case Crime No. 446 of 2022 is concerned, petitioner may collect the correct facts as to whether investigation is pending or matter has reached the Court and thereafter take such action, as may be permissible in law.*

*Writ petition is disposed of. "*

**(3)** The contention of learned counsel for the petitioner is that certain incorrect facts came to be mentioned in the writ petition and consequently in the order of this Court as, in fact, no trial was pending before the court and only the investigation was pending. Nevertheless, in compliance of the said order, an application was filed by some of the petitioners of the earlier writ petition bearing Application Under Section 482 Cr.P.C. No.1837 of 2022 '**Dr. Abha Kiran Sinha & Anrs. vs. State of U.P. & Ors.**' and it was found that no criminal case was pending trial in terms of the O.M. dated 10.10.2019, therefore, the application was rejected. Accordingly, the earlier application for issuance of passport was closed by the Regional Transport Officer and in support thereof, a document has been annexed at page no.159 which is copy of document downloaded from the portal concerned. In these circumstances,

second application for issuance of passport was filed clearly stating that in fact no criminal trial was pending in any court but the said application has not been processed as yet. In these circumstances, the following reliefs has been sought:-

*(i) Issue writ, order or direction in the nature of mandamus, commanding Respondent No. 2 to process Petitioner's Passport Renewal Application bearing Application Reference No. (ARN) 25-0002703524/File No. LK3070765754225 and renew the passport of the Petitioner, without being influenced by mere registration of FIRs against him in respect of which no criminal proceedings have been initiated against the Petitioner before any criminal court:*

*(ii) to issue any other writ, order, or direction, which this Hon'ble Court may deem just and proper in the facts and circumstances of the present case; and*

*(iii) to allow the writ petition with cost.*

**(4)** On being confronted with the Division Bench judgment of this Court in the case of '**Pawan Kumar Rajbhar vs. Union of India & Ors.**' dated 19.01.2024 passed in Writ-C No.41540 of 2023, according to which, even if trial is not pending but on lodging of an F.I.R., investigation is pending, permission was held to be required from the Magistrate concerned, learned counsel for the petitioner invited our attention to another Co-ordinate Bench judgment of this Court dated 28.02.2024 passed in Writ-C No.6450 of 2024 '**Smt. Rita Verma vs. Union of India & Ors.**' wherein the said petition was decided following **Pawan Kumar Rajbhar (supra)**. The matter ultimately went up to Hon'ble the Supreme Court in Special Leave to Appeal (C) No.7481 of 2024 '**Rita Verma vs. Union of India & Ors**' and it was contended that the judgment impugned before it was contrary to the statutory provisions. Hon'ble the Supreme Court noticed the O.M. dated 10.10.2019 and thereafter, in para nos.4 to 8 observed as under:-

*"4. In spite of the clear wordings in the Memo, the High Court by the Order impugned herein came to a conclusion that the Office Memorandum is contrary to the statutory position and proceeded to dismiss the Writ Petition.*

*5. We have heard Mr. Malak Manish Bhatt, learned counsel appearing for the appellant as also Mr. K.M. Natraj, learned Additional Solicitor General appearing for the Union of India. Mr. K.M. Natraj, learned Additional Solicitor General submits that the approach adopted by the High Court that the Office Memorandum is contrary to the statutory positions and is not supported by law and it is also not the stand of the Union of India. Learned Additional Solicitor General expressed no difficulty in processing the application of the appellant on the basis of the Office Memorandum.*

*6. In this view of the matter, it is sufficient for us to direct the authorities to consider the application for renewal of the passport on the basis of Office Memorandum dated 10.10.2019 or any other subsequent Office Memorandums that may govern the field notwithstanding the order passed by the High Court in Writ Petition(C) No.6450/2024 dated 28.02.2024, upon making of an appropriate application, the same shall be disposed of, as expeditiously as possible.*

*7. The appeal stands allowed in terms of the above directions.*

*8. Pending application(s), if any, shall stand disposed of. "*

**(5)** Apparently, Hon'ble the Supreme Court found the judgment contrary to the express provisions of the O.M. and the statutory provisions referred therein. We have also gone through the provisions of the Passports Act, 1967 (in short 'the Act, 1967') especially Section-6(2)(f), according to which, subject to the other provisions of the said 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 the ground that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India. We have also gone through the Office Memorandum dated 10.10.2019 as also the earlier O.M. dated 25.08.1993. Pendency of investigation does

not amount to pendency of proceedings in respect of the offence alleged to have been committed before a criminal court as the matter is at a stage where it has not reached the court consequent to filing of a police report. The aforesaid Office Memorandums have been issued with reference to Section 22 of the Act, 1967 and their statutory and legal force has been discussed and elucidated in several judgments of this Court some of which are judgment dated 20.11.2018 passed in Writ Petition No.31723 (M/B) of 2018 '**Salim Kumar vs. Union of India & Ors.**'; judgment dated 03.12.2022 rendered in Writ-C No.8621 of 2022 : '**Shiv Shankar vs. Union of India & Ors.**'; decision dated 21.06.2022 rendered in Writ-C No.3617 of 2022 : '**Smt. Rashmi Kapoor vs. Union of India & Ors.**'; decision dated 13.11.2024 passed in Writ-C No.9562 of 2024; decision dated 01.05.2025 passed in Writ-C No.1775 of 2025 '**Mohd. Talha vs. Uoi & Ors.**' and a recent decision dated 21.10.2024 rendered by this very Division Bench in Writ-C No.8874 of 2024 '**Shah Alam vs. Union of India & Ors.**'.

(6) Against the aforesaid legal background now we proceed to consider the facts of this case.

(7) In para no.11, the details of the three criminal cases pending against the petitioner have been given. Para no.11 reads as under:-

*"11. That to the best of the knowledge of the Petitioner, three FIRs have been registered against him, however, none of them have culminated in initiation of criminal proceedings against him before any criminal court. The FIRs lodged against the Petitioner are as such:*

*a. FIR bearing Case Crime No. 80/2016 registered under Section 304A IPC. Police Station Kotwali Nagar, District Gonda.*

*b. FIR bearing Case Crime No. 446/2022 registered under Section 406, 506 IPC at Police Station Kotwali Nagar, District Gonda.*

*c. FIR bearing Case Crime No. 159/2023 registered under Section 420, 406, 506 IPC at Police Station Tarabganj, District Gonda"*

(8) As far as F.I.R. bearing Case Crime No.80 of 2016 is concerned, Final report was submitted. After submission of final report, a protest petition was filed which was allowed and further investigation was ordered but the said order was put to challenge by the petitioner in an Application Under Section 482 Cr.P.C. No.1837 of 2022 wherein the proceedings have been stayed. Looking into the facts of the case, it cannot be said that this is a case covered under Section 6(2)(f) of the Act, 1967 as it is not as if after investigation, chargesheet has been filed and the matter is pending trial before the court. Had it been a case that after allowing the protest petition, a complaint case has been ordered to be registered then the situation may have been different as in that case it would amount to pendency of a criminal case before the court relating the offence committed and would be covered under Section 6(2)(f) of the Act, 1967 but that is not the case here. As regards F.I.R. bearing Case Crime No.446/2022, a Final Report was submitted which has been accepted vide order dated 12.09.2024 annexed as Annexure no.13 to the petition. As regards F.I.R. bearing Case Crime No.159/2023, a chargesheet was filed but not against the petitioner and no investigation is pending against the petitioner. These facts have been mentioned in the writ petition along with supporting proofs.

(9) In view of legal position and the facts as noticed hereinabove, we are of the opinion that Regional Passport

Officer, Lucknow should consider the application of the petitioner bearing Reference No.(ARN) 25-0002703524/File No.LK3070765754225 and take a decision thereon keeping the aforesaid and such other factors as may be relevant, in mind, at the earliest say within three weeks.

**(10)** Accordingly, the writ petition is **disposed of**.

**(Om Prakash Shukla,J.) (Rajan Roy,J.)**

**Order Date :- 30.5.2025**

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