



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No.9471/2025

Mohammad Muslim Khan S/o Alahdeen Khan, Aged About 61
Years, R/o 3-F-5, Near Masjid, Vigyan Nagar, Kota (Rajasthan).

-----Petitioner

Versus

1. The Union Of India, Ministry Of External Affairs, (Mea), So (Db), 74B South Block, New Delhi Through Its Secretary.
2. The Regional Passport Officer, Regional Passport Office Kota, E-10B Exchange Building, Plot No Sp-1, Road No. 2, Indraprasth Industrial Area (Ipia), Kota-324005.

-----Respondents

For Petitioner(s) : Mr. Ajit Kaswa
Mr. Ajay Kumar
Mr. Ansar Indori
For Respondent(s) : Ms. Manjeet Kaur

JUSTICE ANOOP KUMAR DHAND

Order

30/07/2025

1. The instant writ petition has been filed by the petitioner with the following prayer:-

"It is, therefore, most respectfully prayed that your Lordship may graciously be pleased to accept and allow the writ petition and by an appropriate writ of mandamus, order or direction in nature thereof:

(i) The impugned letter dated 07.05.2025 may kindly be quashed and set-aside with further direction to the respondents to issue passport to the petitioner as per Gazette Notification dated 25.08.1993 issued by the respondent no.1.

(ii) Any other order which this Hon'ble Court may deems fit and proper in the facts and circumstances of the case also be passed in favour of humble petitioner along with cost of writ petition."



2. By way of filing this writ petition, a challenge has been led to the impugned letter dated 07.05.2025 passed by Regional Passport Office, Kota by which the application submitted by the petitioner seeking re-issuance of passport for the purpose of going abroad for Haj, Umra Jiyarat has been rejected.

3. Learned counsel for the petitioner submits that the petitioner is facing trial for the offences punishable under Section 498-A and 406 IPC in Criminal Case No.164/2021 before the Court of Judicial Magistrate No.3 (North), Kota. Learned counsel submits that the petitioner is in possession of the Passport bearing No.25-1001530353 and he wanted to go abroad, i.e., Mecca-Madina for attending the rituals of Haj, Umra Jiyarat. Learned counsel submits that an application was submitted by the petitioner before the Trial Court seeking permission to go abroad, i.e., Mecca-Madina for the aforesaid purpose. The said application submitted by the petitioner was disposed of vide order dated 16.04.2025 with an observation and direction that, in case, the petitioner prefers an application before the Passport Authority, then it would pass appropriate orders in accordance with law.

4. Learned counsel for the petitioner submits that pursuant to the aforesaid order, the petitioner approached the Passport Authority, i.e., the Ministry of External Affairs, Regional Passport Office at Kota, who vide its letter dated 07.05.2025 informed the petitioner that no permission has been granted to the petitioner to depart from India, i.e., Videsh Yatra. Learned counsel submits that after receiving the aforesaid letter, again one more application was submitted by the petitioner before the Trial Court seeking



permission to go abroad for performing Haj, Umra Jiyarat, i.e., the religious trip, but this time, the said application submitted by the petitioner has been rejected on a technical count that such permission has already been granted in a similar application as decided by the said Court vide order dated 16.04.2025. Learned counsel submits that inspite of submitting two different applications seeking permission to go abroad for the aforesaid purpose, the same were never decided on its merits and the permission was never granted.

5. Learned counsel for the petitioner submits that denial of permission to go abroad amounts to violation of the Fundamental Right of the petitioner contained under Article 21 of the Constitution of India, hence, the interim order passed by the Trial Court be quashed and set-aside and the petitioner be granted permission to go abroad for performing religious activities, i.e., Haj, Umra Jiyarat.

6. *Per contra*, learned counsel for the respondents opposed the arguments raised by learned counsel for the petitioner and submitted that as per the notification dated 25.08.1993 issued by the Ministry of External Affairs, the petitioner cannot be allowed to depart from India as criminal case is pending against him before the Competent Court. Learned counsel submits that unless permission is granted to the petitioner by the Competent Court, the petitioner cannot be allowed to go abroad, hence under these circumstances, the respondents have not committed an error in issuing the letter dated 07.05.2025. Learned counsel submits that, under these circumstances, interference of this Court is not warranted.



7. Heard and considered the submissions made at the Bar and perused the material available on record.

8. Perusal of the record indicates that the petitioner is a passport holder bearing passport No. 25-1001530353 and against him a criminal case under Sections 498-A and 406 IPC has been registered and he has been charge-sheeted for the above offences and now he is facing trial in Criminal Case No.164/2021.

9. The petitioner submitted an application seeking permission for re-issuance of passport for going abroad to perform the rituals of Haj, Umra Jiyarat.

10. The aforesaid application submitted by the petitioner was disposed of by the Trial Court vide order dated 16.04.2025 granting liberty to the petitioner to approach the concerned Passport Authority along-with a copy of his Passport and Passport Authority was further directed to do the needful exercise in accordance with law. It appears that at the time of passing of the aforesaid order, the permission was not granted to the petitioner to go abroad and that was the precise case that Passport Authority has not allowed the petitioner to depart from India to abroad and a letter in this regard was issued to him on 07.05.2025.

11. Thereafter, one more application was submitted by the petitioner seeking permission to go abroad, this time the application was rejected by the trial court vide order dated 15.05.2025.

12. Pendency of criminal case under Sections 498-A and 406 IPC cannot be a ground to deny permission to the petitioner to travel abroad for the religious purpose, i.e., Haj, Umra Jiyarat. Such action on the part of the respondent amounts to violation of the



Fundamental Right to personal liberty of the petitioner contained under Article 21 of the Constitution of India.

13. Denial of permission to go abroad amounts to violation of Fundamental Right to a citizen contained under Article 21 of the Constitution of India. Each and every citizen of India has a right to go abroad as Hon'ble Apex Court in the case of **Maneka Gandhi Vs. Union of India** reported in **AIR 1978 SC 597** has held that even the notification dated 25.08.1993 issued by the Ministry of External Affairs also provides such procedure by which any person against whom a criminal case is pending can be allowed to depart from India, if permission is granted by the Competent Court.

14. In view of the above, this Court is of the view that there can be no reason to deny permission to the petitioner to travel abroad just because a charge-sheet has been submitted against the petitioner under Sections 498-A & 406 IPC and the trial proceeding is pending against him.

15. This court is required to draw a balance between the right of the petitioner to travel abroad and also the right of the prosecution to duly proceed with the trial against the petitioner. From perusal of the judgment passed by the Hon'ble Apex Court in **Maneka Gandhi** (supra), it is clear that the paramount consideration is given to the condition imposed upon the person who has been granted permission to go abroad, so as to ensure that they do not flee from the trial. For ensuring the presence of the petitioner before the trial court, any appropriate conditions can be imposed and in case the conditions imposed by law are violated, appropriate coercive action can be taken.



16. In view of above, the writ petition stands disposed of. The impugned letter dated 07.05.2025 issued by Regional Passport Office, Kota stands quashed and set-aside. The application submitted by the petitioner dated 12.05.2025 seeking permission to go abroad for performing religious rituals of Haj, Umra Jiyarat stands allowed. The petitioner is allowed to travel abroad for the aforesaid purpose for a period of two months subject to the following conditions subject to furnishing of an undertaking by him before this Court as well as before the trial court that:-

- (i) He will return to India on or before 30.09.2025 and he will furnish an undertaking before this Court as well as before the trial court, for the same.
- (ii) He will put appearance before the trial court after his arrival in India for participating in the trial.
- (iii) He shall not visit any other place except Mecca-Madina, for which permission to travel abroad has been granted.
- (iv) It is further made clear that in case the petitioner does not return to India within the time granted by this court, the Trial court shall be at liberty to proceed against the petitioner in accordance with law.
- (v) He shall return back to the trial court and surrender his passport and he will not be allowed to depart from India without seeking prior permission of the trial court in the future.

17. Before parting with this order, the Judicial direction/order is issued to all the subordinate courts whenever an application is submitted by an accused to travel abroad, a clear and specific



order be passed granting or not granting permission to travel abroad. The application should not be decided in a casual manner.

18. In the instant case, while passing the impugned order dated 15.05.2025, the Trial Court has rejected the said application submitted by the petitioner seeking permission to go abroad for performing the religious rituals of Haj, Umra Jiyarat on a technical count that such permission was already granted to the petitioner vide order dated 16.04.2025.

19. Perusal of the order dated 16.04.2025 indicates that no such order was passed by the Trial Court while deciding the application submitted by the petitioner. Hence, the entire confusion has been created before the Passport Authority for granting permission to the petitioner to depart from India to abroad.

20. It is observed by this Court on many occasions that because of non-passing of clear and specific orders, the Passport Authority is not in a position to take appropriate decision. Henceforth, it is expected from all the subordinate courts to pass clear and specific orders whenever such application is submitted by the accused seeking permission to go abroad to avoid any kind of confusion in the mind of the Passport Authority.

21. Let a copy of this order be circulated by the Registrar General amongst all the Judicial Officers for compliance of the directions issued in Para No.17 & 20.

(ANOOP KUMAR DHAND),J

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