



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Writ Petition No. 2358/2025

Pradeep Kumar Sarwogi S/o Late Shri Heera Lal Sarwogi, Aged
About 62 Years, R/o Near City Post Office Ward No 42 District
Churu Raj.

-----Petitioner

Versus

1. Union Of India, Through Secretary, Ministry Of External
Affairs, Government Of India, New Delhi.
2. State Of Rajasthan, Through Learned Public Prosecutor
3. The Regional Passport Officer, Jaipur J-14 Jhalana
Institutional Area Jhalana Doongri District Jaipur
Rajasthan

-----Respondents

For Petitioner(s)	:	Mr. Himanshu Ranjan Singh Bhati
For Respondent(s)	:	Ms. Pintoo Pareek Mr. N.S. Chandawat, DyGA

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

29/01/2026

1. Lord Denning, M.R., in his work *Freedom Under the Law*
(1949), described personal freedom as :

*"the freedom of every law-abiding citizen to
think what he will, to say what he will and to
go where he will on his occasions without let
or hindrance from any other person."*

The freedom to move and to travel, thus, lies at the heart of
individual liberty. For such freedom to be real and not merely
illusory, it must remain capable of exercise when the



occasion arises, which necessarily presupposes that the citizen is in possession of the requisite travel credentials in advance. A liberty that can be exercised only after surmounting procedural or administrative impediments risks being rendered ineffective in practice.

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2. In the constitutional framework, the freedom to move and to travel, though subject to regulation by law, forms an integral facet of personal liberty protected under Article 21 of the Constitution of India. While such freedom is not absolute, any regulatory restraint must remain grounded in law and proportionate to the object sought to be achieved, and cannot be permitted to assume the character of a punitive or indefinite restriction in the absence of adjudicated guilt. It is in this limited backdrop that the grievance raised in the present petition concerning renewal of the petitioner's passport falls for consideration.
3. The petitioner is an accused in Criminal Regular Case No. 142/2017 pending before the Court of learned Chief Judicial Magistrate, Churu, arising out of allegations relating to an allegedly forged Will. The petitioner is alleged to be a signatory as a witness to the said Will and, on that basis, has been arrayed as an accused for offences including Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code. It stands admitted on record that the petitioner has not been convicted in the said case or in any other criminal case.



4. The petitioner challenged the continuance of criminal proceedings against him by moving a Miscellaneous Petition under Section 482 of the Code of Criminal Procedure before this court. By order dated 27.02.2025 passed in S.B. Criminal Misc. Stay Petition No. 4988/2024, further proceedings in the aforesaid criminal case have been stayed *qua* the petitioner, and the said stay continues to operate.

5. The petitioner applied for renewal of passport before the competent Passport Authority. At the stage of consideration of the application, an objection was raised on account of pendency of a criminal case, and the petitioner was called upon to indicate whether the said proceedings had been disposed of. Since the criminal case is still pending, renewal of the passport did not proceed, leading to the filing of the present writ petition.

6. Learned counsel for the petitioner Mr. Himanshu Ranjan Singh Bhati submitted that the petitioner is facing trial in the criminal case but has not been convicted. He pointed out that by order dated 27.02.2025 passed by this Court, further proceedings in the criminal case have been stayed *qua* the petitioner and the said order continues to operate. He submitted that the petitioner applied only for renewal of his passport and is not seeking permission to travel abroad. According to him, there is no order passed by the trial court restraining the petitioner from holding or renewing his passport, nor has any condition been imposed regulating



possession of the passport. It was further contended that mere pendency of a criminal case does not, by itself, require an accused to obtain prior permission of the trial court for renewal of his passport. He urged that neither Section 6(2) (f) of the Passports Act, 1967 nor Notification No. G.S.R. 570(E) dated 25.08.1993 prescribes such a requirement in the absence of any specific restraint imposed by the criminal court. He lastly submitted that renewal of the passport would not prejudice the criminal proceedings in any manner, as the question of travelling abroad does not arise at this stage and the trial court would remain competent to regulate or prohibit such travel in accordance with law, if the occasion so arises.

7. Learned counsel Ms. Pinto Pareek, appearing for the respondents, opposed the writ petition. It was submitted that the petitioner was admittedly aware of the pendency of criminal proceedings against him at the time of applying for renewal of passport. Despite such knowledge, he did not approach the criminal court for appropriate clarification or permission before submitting the application to the Passport Authority. It was urged that the statutory scheme under the Passports Act, 1967 recognises pendency of criminal proceedings as a relevant consideration, and that the Passport Authority was justified in seeking clarification as to the status of the case. According to learned counsel, in matters involving criminal proceedings, it would be appropriate for an applicant to first place the relevant facts



before the criminal court and seek necessary orders, rather than directly invoking writ jurisdiction. Learned counsel further submitted that entertaining such petitions without requiring prior recourse to the criminal court may encourage under-trial accused to bypass the jurisdiction of the criminal court and approach this Court directly for issuance or renewal of passports. It was contended that this could undermine the supervisory control of criminal courts over accused persons and disturb the balance contemplated under the statutory scheme. It was, therefore, submitted that the writ petition does not merit interference and deserves to be dismissed.

8. Mr. N.S. Chandawat, learned DyGA, appearing for the State reiterated the submissions advanced by learned counsel Ms. Pareek and opposed the prayer made on behalf of the appellant.
9. Having heard learned counsel for the parties and considered the rival submissions and the limited controversy which arises for consideration in the present writ petition concerns the scope and application of Section 6(2)(f) of the Passports Act, 1967 read with Notification No. G.S.R. 570(E) dated 25.08.1993, in the factual context of the petitioner's case. The Court is called upon to examine whether renewal of a passport can be declined or deferred solely on account of pendency of criminal proceedings, particularly where the proceedings stand stayed *qua* the petitioner, no restraint has



been imposed by the criminal court on possession of passport, and the petitioner is not seeking permission to travel abroad. The ancillary question as to the extent of writ jurisdiction in scrutinising administrative action of the Passport Authority, in the light of the statutory scheme and the law declared by the Supreme Court, also falls for consideration.

10. At the threshold, it is necessary to note that the controversy in the present writ petition does not arise from any express direction issued by the Passport Authority requiring the petitioner to obtain prior permission or a 'no objection' from the criminal court. The communication issued to the petitioner merely sought clarification as to whether the criminal proceedings stood disposed of. The resistance to renewal, as projected before this Court, is founded on the broader submission that pendency of criminal proceedings obliges the petitioner to first approach the criminal court before seeking renewal of passport. It is this submission, advanced on behalf of the respondents, which falls for examination in the context of the statutory scheme and the law declared by the Supreme Court.
11. Section 6(2)(f) of the Passports Act, 1967 empowers the Passport Authority to refuse issuance of a passport where proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India. The provision, however, does not operate in



isolation. It is expressly subject to the other provisions of the Act, including the power of exemption conferred upon the Central Government under Section 22. In exercise of the said power, Notification No. G.S.R. 570(E) dated 25.08.1993 has been issued, which relaxes the rigour of Section 6(2)(f) in specified situations.

12. The scope and interplay of Section 6(2)(f) and Notification No. G.S.R. 570(E) has been examined authoritatively by the Supreme Court in ***Mahesh Kumar Agarwal v. Union of India & Anr. (2025 INSC 1476)***. The Supreme Court has clarified that Section 6(2)(f) does not operate as an absolute or inflexible bar to issuance or renewal of a passport merely on account of pendency of criminal proceedings. While construing the notification, the Supreme Court has observed:

"What the notification does not do is to create a new substantive bar beyond Section 6(2)(f), or to insist that the criminal court must, in every case, grant a prior blanket permission to 'depart from India' for specified dates as a jurisdictional precondition to the very issue or re-issue of a passport." (para 10)

13. The Supreme Court has further explained the limited statutory purpose underlying the restriction contained in Section 6(2)(f), holding:

"The legitimate purpose behind Section 6(2)(f) and Section 10(3)(e) is to ensure that a person facing criminal proceedings remains amenable to the jurisdiction of the criminal court." (para 21)



14. The restriction is thus regulatory and purpose-oriented, and cannot be permitted to assume the character of a punitive or indefinite civil disability. The provision is intended to secure the presence of the accused before the criminal court and not to impose collateral consequences unrelated to that object.

15. A significant facet of the Supreme Court's reasoning lies in the clear distinction drawn between possession of a passport and permission to travel abroad. In this regard, it has been observed:

"It is important to keep distinct the possession of a valid passport and the act of travelling abroad. A passport is a civil document that enables its holder to seek a visa and, subject to other laws and orders, to cross international borders. Whether a person who is on bail or facing trial may actually leave the country is a matter for the criminal court, which can grant or withhold permission, impose conditions, insist on undertakings, or refuse leave altogether." (para 22)

16. The above distinction assumes particular significance in the present case. The petitioner has not sought permission to travel abroad. The prayer is confined to renewal of the passport as a civil document of identity. The condition imposed while granting anticipatory bail restrains the petitioner from leaving India without prior permission of the Court. That condition continues to bind the petitioner and adequately preserves the jurisdiction of the criminal court.



Renewal of a passport, by itself, does not dilute or override such judicial control.

17. The Supreme Court has also cautioned against administrative insistence on speculative or future travel permissions at the stage of passport renewal, holding:

"The passport authority is not required, at the renewal stage, to demand a schedule of future journeys or visas which may not yet exist." (para 16)

18. Viewed in this backdrop, the contention that the petitioner was required to approach the criminal court for permission or a 'no objection' even at the stage of renewal, in the absence of any restraint order, cannot be accepted. Such insistence would amount to importing a requirement not contemplated either by the statute or by the exemption notification.

19. The Supreme Court has further clarified the role of the writ court in such matters, rejecting the submission that entertaining a writ petition amounts to execution of criminal court orders. It has been observed:

"The writ petition did not seek execution of those orders as such. It sought enforcement of a statutory obligation cast on the passport authority, read with the exemption notification that forms part of the legal regime under the Passports Act." (para 17)

20. An additional and material circumstance in the present case is that further proceedings in the criminal case stand stayed *qua* the petitioner by an order passed by this Court under Section 482 of the Code of Criminal Procedure. During the



subsistence of such stay, no adjudicatory or coercive proceedings can be undertaken against the petitioner. The immediate statutory concern underlying Section 6(2)(f) of the Passports Act, namely ensuring that an accused remains amenable to the jurisdiction of the criminal court, therefore stands substantially diluted for the duration of the stay.

21. In this backdrop, withholding renewal of the petitioner's passport merely on the ground that the criminal proceedings have not been disposed of would neither advance the object of the statute nor satisfy the requirement of proportionality. The petitioner is not a convicted person, continues to be bound by judicial conditions regulating foreign travel, and there is nothing on record to suggest that renewal of the passport would prejudice the prosecution or impede the administration of justice.
22. Before issuing final directions, this Court deems it appropriate to crystallise the legal position emerging from the discussion. Section 6(2)(f) of the Passports Act, 1967 does not contemplate an absolute or automatic embargo on issuance or renewal of a passport solely on account of pendency of criminal proceedings. The restriction is qualified, purpose-oriented, and intended only to secure the amenability of an accused to criminal jurisdiction. Where no restraint has been imposed by the criminal court on possession of a passport, no permission to travel abroad is sought, and judicial control over foreign travel continues to



subsist, denial or deferment of renewal ceases to bear a rational nexus with the statutory object.

23. The exemption notification issued under Section 22 of the Act, namely Notification No. G.S.R. 570(E) dated 25.08.1993, reinforces this interpretation by recognising that persons facing criminal proceedings are not to be treated as wholly disentitled to a passport. The notification regulates the manner of issuance in appropriate cases, but does not convert renewal of a passport into an indirect or anticipatory mechanism of travel control.
24. The distinction between renewal of a passport and permission to leave the country remains fundamental. Renewal merely enables possession of a valid civil document of identity and does not, by itself, confer any right to travel abroad or dilute the authority of the criminal court. Where a subsisting judicial order already restrains an accused from leaving India without prior permission, the concern underlying Section 6(2)(f) stands adequately addressed. Insistence on a further "no objection" at the stage of renewal, in such circumstances, would amount to procedural formalism unsupported by the statutory scheme.
25. The present case also stands on a materially stronger footing than the case considered by the Supreme Court in *Mahesh Kumar Agarwal v. Union of India & Anr.* In that case, the appellant was not only facing criminal proceedings but had also suffered a conviction in a separate matter, albeit with



the sentence suspended. Even in such circumstances, the Supreme Court declined to uphold a rigid or mechanical application of Section 6(2)(f). In the present case, the petitioner is not a convicted person and further proceedings in the criminal case stand stayed *qua* him. The justification for withholding or truncating renewal of the passport is, therefore, even weaker.

26. As regards the period of validity, this Court finds no legal or rational basis to direct a truncated or short-term renewal. The criminal case arises from an FIR of the year 2015 and the trial has remained in abeyance for a considerable length of time, with no certainty as to when the proceedings may recommence or reach finality. To compel the petitioner, a senior citizen, to repeatedly approach the Passport Authority or the Court for renewal at short intervals, despite not seeking permission to travel abroad, would impose an unreasonable and disproportionate burden unconnected with the object of the statute. Once the concern underlying Section 6(2)(f) stands sufficiently addressed through subsisting judicial control over foreign travel, there is no justification to deny renewal for the full standard validity period prescribed under law.
27. For the reasons aforesaid, the writ petition is allowed.
28. The petitioner shall place a copy of this order before the concerned Regional Passport Officer, who shall process and renew the petitioner's passport for the full standard validity



period of ten years, subject to fulfillment of statutory requirements and in accordance with law.

29. Renewal of the passport shall not, by itself, entitle the petitioner to travel abroad. Prior permission of the competent criminal court shall be obtained before any such travel.

30. This order is confined to the facts of the present case and shall not be construed as limiting the jurisdiction of the criminal court to impose appropriate conditions in accordance with law.

31. No order as to costs.

(FARJAND ALI),J

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