

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE SUBODH ABHYANKAR

ON THE 9th OF MAY, 2023

WRIT PETITION No. 6229 of 2023

BETWEEN:-

**RITESH AJMERA S/O SHRI PAWAN KUMAR
AJMERA, AGED ABOUT 51 YEARS,
OCCUPATION: BUSINESS R/O 29-30 PALIWAL
NAGAR INDORE (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI VISHAL BAHETI, ADVOCATE)

AND

- 1. UNION OF INDIA SECRETARY MINISTRY OF
EXTERNAL AFFAIRS PATIALA HOUSE ANNEX
TILAK MARG NEW DILHI 110001 (DELHI)**
- 2. THE REGIONAL PASSPORT OFFICER, UNION
OF INDIA MINISTRY OF EXTERNAL AFFAIRS
PASSPORT OFFICE 2ND FLOOR, GANGOTRI
COMPLEX, T.T. NAGAR BHOPAL (MADHYA
PRADESH)**

.....RESPONDENTS

(BY SHRI SUDHANSHU VYAS ADVOCATE)

.....
*This petition coming on for admission this day, the court
passed the following:*

ORDER

1] Heard.

2] This petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:-

“That Petitioner prays for a writ of mandamus or any other appropriate writ, order or direction to the respondent no. 2 to immediately renew the passport of the petitioner for a period of 10 years.

Any other relief which this Hon’ble Court may deem fit in the interest of justice.”

3] In brief, the facts of the case are that the petitioner is facing criminal trial in connection with Crime No.563/2016 (S.T. No.600726/2016) wherein he has already been granted bail by this Court in M.Cr.C. No.5492 of 2017 vide order dated 22.06.2017 with a direction to surrender his passport before the trial Court, which order the petitioner has already complied with. However, the petitioner's grievance is that his passport is valid till 01.06.2020 only and thus, he sought release of the passport from the trial, which application was rejected on 08.07.2022 by the trial Court. The aforesaid order was challenged by the petitioner in M.Cr.C. No.35804 of 2022 which was allowed by this Court on 30.08.2022 setting aside the order passed by the trial Court and directing to release the passport of the petitioner on an undertaking that he would submit his passport before the trial Court no sooner it is renewed.

4] The grievance of the petitioner is that after the passport was released by the trial Court, the petitioner approached the Passport

Authorities by filing an application dated 07.10.2022 for renewal of the passport, however, the petitioner has been informed that there is adverse police verification to his credentials. In the aforesaid communication dated 23.11.2022, it is mentioned that against the petitioner 22 criminal cases have been registered under Sections 420, 419, 467, 468, 471, 120-B and 34 of IPC, but he has taken the permission only in one such offence under Crime No.563 of 2016.

5] Counsel for the petitioner has relied upon the order passed by this Court in the case of **Hardik Shah Vs. Union of India and another** passed in **W.P. No.5692 of 2020** dated **07.12.2021** wherein this Court has held that the Gazette Notification dated 25.08.1993 is not an impediment in a case of renewal of a passport for a period of ten years. Thus, Shri Baheti has submitted that since the present case is also purely of renewal of passport, the respondents may be directed to renew the same for a period of ten years without compelling the petitioner to seek no objection in all the other 22 cases registered against him.

6] A reply has also been filed by the respondents wherein a reference is made to Section 6(2)(f) of the Passport Act, 1967 which authorizes the concerned Officer to refuse the passport if any criminal case is pending against any person in Criminal Court of India and in the present case since 21 other cases have also been registered against him, the passport cannot be renewed. The

respondents have also relied upon the Gazette Notification issued by Ministry of External Affairs No.G.S.R. No.298(E) dated 14.04.1976 which prescribes as under:-

“It is necessary in public interest to do so, hereby exempts citizen of India against whom any proceeding in respect of an offence alleged to have been committed by them are pending before a criminal Court in India and who produce order from the Court concerned permitting them to depart from India from the operation of the provision of Clause (f) of sub section (2) of section 6 of the Passport Act, 1967.”

7] Thus, it is submitted that in the light of the aforesaid Notification, the petitioner may be directed to obtain the permission from respective concerned Courts where criminal cases registered against the petitioner are pending and thus, it is submitted that the petition being devoid of merits, is liable to be dismissed.

8] Heard counsel for the parties and perused the record.

9] On due consideration of the Gazett Notification No.G.S.R. No.298(E) dated 14.04.1976, this court is of the considered opinion that it would be applicable in case where a person against whom criminal case is pending intends to depart from India. In the present case it is not the petitioner's intention to depart from India, but he only wants to have his passport renewed. In such circumstances, in the considered opinion of this court, he is not required to obtain separate permissions from each of such 22 criminal courts in which cases are pending against him as he is required to take permission

only if he intends to depart from India.

10] In view of the same, this court finds no legal impediment in allowing the present petition for renewal of the passport of the petitioner.

11] Accordingly, the petition *stands allowed* and it is directed to the respondents to renew the passport of the petitioner for such period according to his entitlement within a period of three months from the date of receipt of certified copy of this order.

12] After the passport of the petitioner is renewed, he is also directed to deposit the same in the trial Court as was earlier directed by this court in M.Cr.C. No.35804 of 2022 which was allowed by this Court on 30.08.2022.

(Subodh Abhyankar)
Judge

Pankaj