

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CWP No. 19082 of 2010

Date of decision September 1, 2011

Ranjit Singh

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present:-

Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Ajay Kaushik, Advocate
for respondent No.1.

Mr. Arvind Mittal, Additional Advocate
General, Punjab for respondent Nos. 2 and 3.

1. Whether reporters of local papers may be allowed to see the judgment ? No
2. To be referred to the reporters or not? No
3. Whether the judgment should be reported in the digest? No

K. Kannan, J (oral).

1. Reply on behalf of respondent No.3 is filed in Court. The same is taken on record.

2. The petitioner prays for issuance of a passport. The State report to the passport officer is that there are two criminal cases registered against him but in the case registered in FIR No.27 dated 18.3.1993, the petitioner had been acquitted. As regards yet another case in FIR No.99 dated 21.4.2002, challan was presented on 1.5.2004 and the case is still pending. The report also says that he used to give shelter to

the terrorists and as per the Police Station record, "he is high doubts" (sic). The petitioner states that he has not been involved in any case for all these years. In terms of Section 6 of the Passport Act, the clauses that could be relevant would be (2) (c) clause (e) (f) and g) they are reproduced as under:-

(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:--

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

(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;"

3. As far as clause (c) is concerned the departure from India should be detrimental to the security of India. In the context in which the said recommendation is against the petitioner, it is expected that there is a basis for a statement that he harbors terrorists. If there is any such apprehension or if he is shown to have been involved in a criminal

case, then it should be a matter of record and not merely an expression of a wild statement that he is involved in terrorist activities. The said report itself refers to only pendency of two cases and is not seen on what basis the imputation is made that he is involved with terrorists. Sub clause (e) refers to a conviction of a person by a Court of India. Admittedly the petitioner has not been convicted and therefore it does not apply. Clause (f) refers to proceedings in respect of an offence alleged to have been committed and where a case is pending. Clause (g) applies in cases where a warrant or summon for appearance has been issued by a Court and the order prohibiting the departure from India had been made by any such Court.

4. In a similar situation of pendency of a criminal case, this Court has considered a matter in **Musa Khan Vs. U.O.I in CWP No. 8222 of 2010 dated 24.8.2010.** In that case the Court has directed that appropriate recommendation from the said police should be made for issuance of a passport and that the passport would remain in custody with the jurisdictional Magistrate and appropriate orders could be made of any visit that could be undertaken with the permission of the Court concerned.

5. I would therefore, provide such a direction to the police to make a recommendation under the following terms:-

- i. *that the original passport be issued in the name of the petitioner, shall remain in the custody of the Chief Judicial Magistrate. Judicial Magistrate at Patiala till the cancellation report is accepted and the petitioner is discharged/acquitted.*
- ii. *that the petitioner shall visit abroad only with the prior permission of the Court concerned.*
- iii. *That there is no other criminal case in which the petitioner is wanted.”*

If such a recommendation is done by the State Authority within a period of four weeks, the prescribed Passport Officer shall duly consider the petitioner's request for issuance of a passport and the same be issued to be delivered to the jurisdictional Magistrate before whom the case is pending against the petitioner.

6. The writ petition is disposed of on the above terms.

September 1 , 2011
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(K. KANNAN)
JUDGE



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