2025 INSC 1476

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2025
(ARISING OUT OF SLP (CIVIL) NO. 17769 OF 2025)

MAHESH KUMAR AGARWAL ...APPELLANT(S)

VERSUS

UNION OF INDIA & ANR. ...RESPONDENT(S)

J U D G M E N T

VIKRAM NATH, J.

1. Leave granted.
2. Liberty, in our constitutional scheme, is not a gift of the State but its first obligation. The freedom of a citizen to move, to travel, to pursue livelihood and opportunity, subject to law, is an essential part of the guarantee under Article 21 of the Constitution of India. The State may, where statute so provides, regulate or restrain that freedom in the interests of justice, security or public order but such restraint must be narrowly confined to what is necessary, proportionate to the object sought to be achieved, and clearly anchored in law. When procedural safeguards are converted into rigid barriers, or temporary disabilities are allowed to harden into indefinite exclusions, the balance between the power of the State and

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the dignity of the individual is disturbed, and the promise of the Constitution is put at risk.

3. The present appeal arises from the judgment and order dated 04.04.2025 passed by the Division Bench of the High Court at Calcutta in APOT No. 215 of 2024, affirming the judgment and order dated 15.05.2024 passed by the learned Single Judge in WPO No. 352 of 2024. By the said order, the learned Single Judge dismissed the writ petition filed by the appellant seeking a direction to the respondents, namely the Union of India through the Ministry of External Affairs and the Regional Passport Office, Kolkata (hereinafter "RPO, Kolkata"), to renew his ordinary passport which had expired on 28.08.2023. The Division Bench upheld the legal reasoning of the learned Single Judge, but left it open to the appellant to approach the High Court of Delhi and the Court of the Additional Judicial Commissioner XVI-cum-Special Judge, National Investigation Agency[1], Ranchi, for appropriate directions.

4. The facts giving rise to the present appeal are as follows:

4.1. The appellant, Mahesh Kumar Agarwal, is an Indian citizen who was issued an ordinary passport bearing No. Z2611895 on 29.08.2013, which remained valid until 28.08.2023.

4.2. The appellant is an accused in a case investigated by the NIA, arising out of Tandwa P.S. Case No. 02 of 2016 dated 11.01.2016 in District Chatra, Jharkhand. The NIA re-registered the case as RC No. 06/2018/NIA/DLI on

[1] NIA

16.02.2018, alleging extortion, levy collection and related activities in the coal mining areas of Amrapali and Magadh, including alleged funding of a proscribed organisation. The appellant has been arrayed as Accused No. 18 and stands charge sheeted, inter alia, under Section 120B of the Indian Penal Code, 1860[2] read with Section 17 of the Unlawful Activities (Prevention) Act, 1967[3], and for substantive offences under Sections 17 and 18 of the UA(P) Act, Section 17 of the Criminal Law Amendment Act, 1908[4] and Section 201 IPC, before the Court of the Additional Judicial Commissioner XVI-cum-Special Judge, NIA, Ranchi[5], in Special Case No. 03 of 2018.

4.3. Prior to the present proceedings, the appellant had challenged an order of cognizance passed by the NIA Court, Ranchi, by filing Criminal Appeal (Division Bench) No. 119 of 2020 before the High Court of Jharkhand. By an interim order dated 10.02.2020, the High Court directed that the appellant shall not leave India without prior permission of the Court and that he shall deposit his passport before the Trial Court. In compliance, the appellant's passport was deposited before the NIA Court, Ranchi. Criminal Appeal (DB) No. 119 of 2020 was subsequently dismissed on 11.01.2022 and the protection granted earlier was vacated. A Special Leave

[2] IPC
[3] UA(P) Act
[4] CLA Act
[5] NIA Court, Ranchi

Petition (Criminal) filed by the appellant against the dismissal of the said appeal was also dismissed by this Court.

4.4. In the NIA case, the appellant was arrested and remanded to custody. By order dated 11.04.2022 passed in Criminal Appeal (DB) No. 175 of 2022, the High Court of Jharkhand set aside an order refusing bail and directed that the appellant be released on bail on conditions to be fixed by the NIA Court, Ranchi. By order dated 12.04.2022, the NIA Court, Ranchi, directed the appellant to furnish bail bonds and further directed that he shall deposit his original passport before the Court. The appellant informed the Court that his original passport was already in the Court's custody pursuant to the earlier order passed by the High Court of Jharkhand.

4.5. Separately, the appellant was tried in a CBI coal block matter before the Court of the Special Judge, Prevention of Corruption Act, CBI (Coal Block Cases-01), Rouse Avenue Courts, New Delhi. By judgment dated 21.04.2022 and order on sentence dated 25.04.2022, the appellant was convicted and sentenced to a maximum term of four years' imprisonment for offences under the IPC. The fine imposed was paid. Against the said conviction and sentence, the appellant preferred Criminal Appeal No. 189 of 2022 before the High Court of Delhi.

4.6. By order dated 23.05.2022, the Delhi High Court suspended the sentence awarded to the appellant, subject to conditions, including a direction that the appellant

shall not leave the country without permission of the Court.

4.7. As the date of expiry of his passport approached, the appellant filed an application before the NIA Court, Ranchi, seeking "no objection" for renewal of his passport for a further period of ten years and for release of the passport for that limited purpose. By order dated 10.07.2023, the NIA Court, Ranchi, noted that the passport bearing No. Z2611895 had been issued on 29.08.2013 and was valid till 28.08.2023, and that the appellant had applied for "no objection" for renewal of the passport for a period of the next ten years.

4.8. By the order dated 10.07.2023, the NIA Court, Ranchi, directed that the passport of the appellant be handed over to him for the limited purpose of renewal, upon his furnishing an indemnity bond of Rs.50,000/- with two sureties of like amount, one surety being a resident of Ranchi, Jharkhand. The appellant was directed to remain physically present for framing of charge on 31.07.2023 and to receive the passport himself. The appellant was also required to file an undertaking that he would not obtain any visa to travel outside India after renewal of the passport without permission of the NIA Court, Ranchi, and that he would deposit the renewed passport immediately with the Court office. A copy of the order was directed to be sent to the Superintendent of Police, NIA, with a further direction to forward it to the Ministry of

External Affairs and the RPO, Kolkata, for information and needful.

4.9. Thereafter, the appellant moved an application being CRL.M.A. No. 21988 of 2023 in Criminal Appeal No. 189 of 2022 before the Delhi High Court, seeking "no objection" or permission for renewal of his passport for a period of ten years. In that application, it was pointed out that, under the notification dated 25.08.1993 issued under Section 22 of the Passports Act, 1967 (hereinafter "Passports Act"), read with the Office Memorandum dated 10.10.2019 issued by the Ministry of External Affairs (hereinafter "OM dated 10.10.2019"), persons against whom criminal cases are pending are required to obtain permission or no objection from the concerned court for issuance or renewal of passports.

4.10. By order dated 04.09.2023, the Delhi High Court, after noticing its earlier condition imposed in the order dated 23.05.2022 that the appellant shall not leave the country without permission of the Court, held that there was no basis to deny renewal or issuance of passport to the appellant for a regular period of ten years. The Delhi High Court accordingly granted "no objection" and permission for renewal of the appellant's passport for a period of ten years.

4.11. In the meantime, the appellant's passport expired on 28.08.2023. On 22.09.2023, the appellant submitted an application for re-issue of his passport before the RPO, Kolkata, bearing Application No. CA2075810107923. In

the said application, the appellant disclosed the pendency of the NIA case before the NIA Court, Ranchi, the conviction in the CBI coal block case, and the criminal appeal pending before the Delhi High Court, as well as the orders passed therein, including the condition that he shall not leave India without permission of the Court.

4.12. On 17.10.2023, the appellant appeared before the RPO, Kolkata, and produced certified copies of the order dated 04.09.2023 passed by the Delhi High Court and the order dated 10.07.2023 passed by the NIA Court, Ranchi. He requested renewal of his passport for a period of ten years on the strength of the said orders.

4.13. The respondents examined the application in the light of Section 6(2)(f) of the Passports Act, the notification G.S.R. 570(E) dated 25.08.1993 issued under Section 22 of the Passports Act (hereinafter "GSR 570(E)") and the OM dated 10.10.2019. According to the respondents, the appellant could be exempted from the bar under Section 6(2)(f) only if the competent criminal court expressly permitted his departure from India and specified, or at least enabled, the period of travel, in terms of GSR 570(E). Since the NIA Court, Ranchi, had granted "no objection" only for the limited purpose of renewal of the passport, had directed re-deposit of the passport immediately after renewal and had not granted permission to travel abroad in the pending NIA case, the respondents took the position that the statutory bar under Section 6(2)(f)

continued to operate and that a regular ten-year passport could not be issued.

4.14. Before any final decision was communicated by the RPO, Kolkata, the appellant addressed letters dated 10.03.2024 and 05.04.2024 to the Passport Authority, reiterating his request for renewal of his passport. As there was no positive response, the appellant approached the High Court at Calcutta under Article 226 of the Constitution of India by filing WPO No. 352 of 2024, seeking, inter alia, a direction to the Union of India through the Ministry of External Affairs and the RPO, Kolkata, to renew his passport for ten years in terms of the orders passed by the Delhi High Court and the NIA Court, Ranchi.

4.15. By judgment and order dated 15.05.2024, the learned Single Judge of the High Court at Calcutta dismissed the writ petition. The learned Single Judge examined the scheme of the Passports Act, the Passport Rules, 1980 (hereinafter "Passport Rules"), GSR 570(E) and the OM dated 10.10.2019, and held, inter alia, that the power to re-issue or renew a passport after expiry of its tenure is traceable to Section 5 of the Passports Act, and that the restrictions contained in Section 6(2), including Section 6(2)(f), apply equally to such re-issuance or renewal. The learned Single Judge noted that while the Delhi High Court had granted no objection for renewal of the passport for ten years, the NIA Court, Ranchi, had permitted the appellant to obtain the passport only for the

limited purpose of renewal and had not granted permission to travel abroad. On that premise, the learned Single Judge held that the bar under Section 6(2)(f) operated against the appellant and that the Passport Authority could not be compelled to renew or re-issue a passport in contravention of the statute.

4.16. Aggrieved, the appellant preferred an appeal, being APOT No. 215 of 2024, before the Division Bench of the High Court at Calcutta. By an interim order dated 07.02.2025, the Division Bench recorded a prima facie view that the writ court could not be converted into an executing court to enforce orders of the Delhi High Court or the NIA Court, Ranchi, and that, in any event, in the appellant's Delhi case the sentence alone had been suspended and the conviction had not been stayed. The Division Bench also noted that the distinction between issuance and renewal of a passport has been removed by the omission of the separate renewal form, and that the grounds under Section 6(2) of the Passports Act applied to an application for re-issue of a passport as well.

4.17. By the impugned judgment and order dated 04.04.2025, the Division Bench dismissed the appeal and affirmed the reasoning of the learned Single Judge. It held that there existed a statutory embargo under Section 6(2)(f) of the Passports Act in view of the pending proceedings before the NIA Court, Ranchi, and the subsisting conviction in the Delhi case, and that, in the absence of an order from the competent criminal courts permitting the appellant to

depart from India in terms of GSR 570(E), the Passport Authority could not be directed to re-issue a passport for a regular period of ten years. At the same time, the Division Bench clarified that it did not wish to foreclose the appellant's rights and left it open to him to approach the Delhi High Court and the NIA Court, Ranchi, for appropriate directions in accordance with law.

5. Being aggrieved by the dismissal of his writ petition and intra-court appeal, and by the refusal of the High Court at Calcutta to grant relief for renewal of his passport, the appellant has approached this Court in the present appeal, assailing the judgment and order dated 04.04.2025 as well as the judgment and order dated 15.05.2024 and seeking appropriate directions for renewal of his passport in terms of the permissions granted by the Delhi High Court and the NIA Court, Ranchi.

6. We have heard the learned senior counsel Mr. Gopal Subramanium for the appellant and Learned Additional Solicitor General Mrs. Aishwarya Bhati for the respondents and we have perused the material on record. The issue that arises for consideration is whether, having regard to the Passports Act, the Passport Rules, notification GSR 570(E) dated 25.08.1993 and the OM dated 10.10.2019, the respondents were justified in declining to re-issue an ordinary passport to the appellant for the normal period of ten years on account of the pending criminal proceedings and the subsisting conviction, despite the "no objection" or

permissions granted by the Delhi High Court and the NIA Court, Ranchi.

7. Before going into the crux of the matter at hand, we deem it necessary to reproduce the principal statutory provisions and notifications which bear on the controversy in the present appeal.

7.1 Section 5 of the Passports Act, which deals with applications for passports and orders thereon, provides as follows:

"**5. Applications for passports, travel documents, etc., and orders thereon**

(1) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents.

Explanation. - In this section, 'named foreign country' means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.

(1A) An application for the issue of-

(i) a passport under this Act for visiting a named foreign country; or

(ii) a travel document under this Act for visiting such foreign country or countries (including a named foreign country) as may be specified in the application or for an endorsement on the passport or travel document referred to in this section,

may be made to the passport authority and shall be accompanied by such fee (if any), not exceeding rupees fifty, as may be prescribed.

(1B) Every application under this section shall be in such form and contain such particulars as may be prescribed.

(2) On receipt of an application under this section, the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing, -

(a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign country or countries specified in the application; or

(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries; or

(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement.

(3) Where the passport authority makes an order under clause (b) or clause (c) of sub-section (2) on the application of any person, it shall record in writing a brief statement of its reasons for making such order and furnish to that person on demand a copy of the same unless in any case the passport authority is of the opinion that it will not be in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country or in the interests of the general public to furnish such copy."

7.2 Section 6 of the Passports Act, which deals with refusal of passports and travel documents, in so far as it is material, provides:

"**6. Refusal of passports, travel documents, etc**.-

(1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:-

(a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India;

(b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;

(c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country;

(d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.

(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:-

(a) that the applicant is not a citizen of India;

(b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;

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

(d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;

(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;

(h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;

(i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest."

7.3 Sections 7 and 8 of the Passports Act, which deal with duration and extension of passports, provide:

"7. Duration of travel document.-

A passport or travel document shall, unless revoked earlier, continue in force for such period as may be prescribed and different periods may be prescribed for different classes of passports

or travel documents or for different categories of passports or travel documents under each such class:

Provided that a passport or travel document may be issued for a shorter period than the prescribed period-

(a) if the person by whom it is required so desires; or

(b) if the passport authority, for reasons to be communicated in writing to the applicant, considers in any case that the passport or travel document should be issued for a shorter period.

8. Extension of period of passport.-

Where a passport is issued for a shorter period than the prescribed period under section 7, such shorter period shall, unless the passport authority for reasons to be recorded in writing otherwise determines, be extendable for a further period (which together with the shorter period shall not exceed the prescribed period) and the provisions of this Act shall apply to such extension as they apply to the issue thereof."

7.4 Section 9 of the Passports Act, which refers to the conditions and forms of passports, states:

> **"9. Conditions and forms of passports and travel documents.-**
>
> The conditions subject to which, and the form in which, a passport or travel document shall be issued or renewed shall be such as may be prescribed:
>
> Provided that different conditions and different forms may be prescribed for different classes of passports or travel documents or for different categories of passports or travel documents under each such class:
>
> Provided further that a passport or travel document may contain, in addition to the prescribed conditions, such other conditions as the passport authority may, with the previous approval of the Central Government, impose in any particular case."

7.5 Section 10 of the Passports Act, which confers power to impound or revoke a passport, in so far as it is relevant for the present matter, reads thus:

"**10. Variation, impounding and revocation of passports and travel documents.-**

…

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document-

(a) if the passport authority is satisfied that the holder of the passport or travel document is in wrongful possession of the same; or

(b) if the passport or travel document was obtained by the suppression of material information or on the basis of wrong information provided by the holder or any other person on his behalf; or

[Provided that if the holder of such passport obtains another passport the passport authority shall also impound or cause to be impounded or revoke such other passport]

(c) if the passport authority deems it necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public;

(d) if the holder of the passport or travel document has, at any time after the issue of the passport or

travel document, 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;

(e) if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a criminal court in India;

(f) if any of the conditions of the passport or travel document has been contravened;

(g) if the holder of the passport or travel document has failed to comply with a notice under sub-section (1) requiring him to deliver up the same;

(h) if it is brought to the notice of the passport authority that a warrant or summons for the appearance, or a warrant for the arrest, of the holder of the passport or travel document has been issued by a court under any law for the time being in force or if an order prohibiting the departure from India of the holder of the passport or other travel document has been made by any such court and the passport authority is satisfied that a warrant or summons has been so issued or an order has been so made."

7.6 Section 22 of the Passports Act empowers the Central Government to grant exemptions. It provides:

"**22. Power to exempt.-**

Where the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification-

(a) exempt any person or class of persons from the operation of all or any of the provisions of this Act or the rules made thereunder; and

(b) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons to the operation of such provisions."

7.7 Rule 12 of the Passport Rules, which prescribes the period for which an ordinary passport remains in force, stipulates, to the extent relevant, that an ordinary passport shall, unless otherwise ordered and subject to the provisions of the Passports Act, be in force for a period of ten years from the date of its issue and shall not be issued for a period beyond ten years.

7.8 In exercise of the power under Section 22 of the Passports Act, the Central Government issued notification GSR 570(E) dated 25.08.1993. By this notification, citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India were exempted from the operation of Section 6(2)(f), subject to conditions. The notification, inter alia, provides that:

"(a) the passport to be issued to every such citizen shall be issued-

(i) for the period specified in order of the court referred to above, if the court specifies a period for which the passport has to be issued; or

(ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period of one year;

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year;

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify

the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a)(ii) and (a)(iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified;

(c) any passport issued in terms of (a)(i) above can be further renewed only on the

basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued."

7.9 The Ministry of External Affairs thereafter issued the OM dated 10.10.2019 (No. VI/401/1/5/2019). By this Office Memorandum, all Passport Authorities were directed to apply GSR 570(E) strictly in cases where criminal proceedings are pending, to insist on an undertaking in terms of the notification, and to treat a "no objection certificate" or permission granted by a criminal court as

prevailing over an adverse police report, while keeping in view that in cases covered by Section 6(2)(f) the passport is ordinarily to be issued for a shorter period, consistent with the scheme of the Passports Act and the Passport Rules.

8. From a conjoint reading of Sections 5, 6, 7 and 8 of the Passports Act, a structured scheme emerges. Section 5 is the starting point. It prescribes the manner in which an application for a passport is to be made and requires the passport authority, subject to the other provisions of the Act, to decide the application by issuing or refusing the passport through a written order. Section 6 qualifies that power and sets out, in an exhaustive manner, the grounds on which the passport authority shall refuse to issue a passport or travel document. Sub-section (1) deals with refusal of endorsements for particular countries. Sub-section (2) governs refusal of issue itself and again begins with the words "subject to the other provisions of this Act". It obliges the authority to refuse issue where any of the situations in clauses (a) to (i) are present, including the pendency of criminal proceedings before a court in India under clause (f). Section 7 then addresses the duration of a passport. It provides that a passport shall continue in force for such period as may be prescribed, but also permits the authority, for reasons to be communicated in writing to the applicant, to issue a passport for a shorter period in an appropriate case. Section 8 deals with the

converse situation where a passport has already been issued for a shorter period. It permits extension of such a passport, but expressly states that the provisions of the Act shall apply to such extension as they apply to the issue of the passport, thereby linking an extension back to the same statutory conditions and limitations that govern original issue under Sections 5 and 6.

9. Sections 9, 10 and 22 reinforce and complete this framework. Section 9 enables the Central Government, by rules, to prescribe the conditions subject to which and the form in which a passport shall be issued or renewed. It also permits, with prior approval of the Central Government, the imposition of case-specific conditions in addition to the prescribed ones. Section 10 operates at a later stage and deals with the life of a passport after it has been issued. It empowers the passport authority, in defined situations, to require production of the passport and to impound or revoke it. One such situation, under Section 10(3)(e), is where proceedings in respect of an offence alleged to have been committed by the holder are pending before a criminal court in India. Section 22 then confers on the Central Government the power, where it considers it necessary or expedient in the public interest, to exempt any person or class of persons from the operation of specified provisions of the Act or the Rules, subject to conditions. It is in exercise of this power that GSR 570(E) was issued, creating a controlled exemption from the bar in Section 6(2)(f) in favour of persons facing criminal

proceedings who obtain permission from the concerned court and comply with the conditions set out in that notification.

10. On a plain reading, GSR 570(E) does two things. First, it recognises that persons facing criminal proceedings are not to be treated as absolutely disentitled to a passport. Instead, it permits such persons to obtain a passport, notwithstanding Section 6(2)(f), where the concerned criminal court has applied its mind and passed an order in relation to issuance or use of the passport and where the applicant furnishes an undertaking to appear before the court as and when required. Secondly, it structures the exercise of that exemption by tying the validity and use of the passport to the terms of the court's order. Thus, where the court specifies a period for which the passport is to be issued, the passport authority must honour that period. Where the court does not stipulate any period, the notification provides default rules, including issuance for a shorter period, ordinarily one year, in appropriate cases. 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.

11. The OM dated 10.10.2019 does not create a new regime. It reiterates that GSR 570(E) must be "strictly applied", explains the procedure where criminal cases are pending

and makes it clear that a "no objection certificate" or permission from the criminal court, read with the applicant's undertaking, may override an adverse police report with reasons recorded by the Passport Officer. It also contemplates situations where more than one court is dealing with the matter and indicates that the orders of all such courts are to be read together. The OM is thus an administrative restatement of the position under Section 6(2)(f), Section 22 and GSR 570(E), and cannot add to or cut down the exemption which the notification itself grants.

12. Proceeding on the same assumption as the Calcutta High Court, we are prepared to treat re-issue of an expired ordinary passport as referable to Section 5 and subject to Section 6(2)(f). Even on that footing, the question is whether the embargo under Section 6(2)(f) remained absolute in the appellant's case, or stood relaxed by virtue of the orders passed by the Delhi High Court and the NIA Court, Ranchi, which brought him within the exempted class recognised in GSR 570(E). In our view, once the criminal courts, with full knowledge of the pending proceedings, consciously allowed renewal subject to the condition that the appellant shall not travel abroad without their permission and, in the case of the NIA Court, required redeposit of the renewed passport, the underlying concern of Section 6(2)(f) stood adequately addressed under judicial supervision.

13. The Calcutta High Court has treated Section 6(2)(f) as an unyielding bar so long as any criminal proceeding is pending, unless the criminal court simultaneously authorises a specific foreign trip for a defined period. That reading unduly narrows the effect of GSR 570(E). Nothing in the Passports Act requires the criminal court to convert every permission into a one-time licence to undertake a particular journey. The statute equally permits the court to allow renewal of the passport while retaining complete control over each instance of foreign travel by insisting on its prior leave, as both courts have done in the present case.

14. We are also unable to agree with the view that the appellant could not fall within GSR 570(E) because the NIA Court did not itself mention "ten years" in its order. The appellant's application before that court specifically sought renewal for ten years. The NIA Court granted no objection for renewal, released the passport for that limited purpose, directed redeposit after renewal and prohibited the appellant from obtaining any visa or travelling abroad without its permission. The Delhi High Court, dealing with the conviction in the CBI case, then expressly held that there was no basis to deny renewal "for a regular period of ten years" and granted permission accordingly, while continuing the condition that the appellant shall not leave the country without its permission. Read together, in the manner envisaged by the OM dated 10.10.2019, these orders supply both the requisite judicial permission and a

clear indication of the period of validity. In such circumstances, the Passport Authority and the Calcutta High Court were not justified in treating Section 6(2)(f) as continuing to operate in full force so as to deny renewal altogether.

15. The reasoning of the learned Single Judge proceeds on the basis that, once Section 6(2)(f) is attracted, renewal of a passport is virtually ruled out unless the criminal court, at the same time, permits a particular foreign trip for a specified duration. With respect, this approach overlooks two features of the statutory scheme. First, Section 6(2)(f) is a ground for refusal at the stage of issue or re-issue, but it is expressly made subject to "the other provisions" of the Act, which include Section 22 and the exemption carved out through GSR 570(E). Second, GSR 570(E) does not compel the criminal court to authorise a particular journey. It proceeds on the broader premise that where the criminal court permits the applicant to depart from India and the period of validity can be anchored either in the court's order or in the default periods mentioned in the notification, the embargo in Section 6(2)(f) stands lifted to that extent. In the present case, both criminal courts have adopted a different but equally legitimate method of control by allowing renewal while reserving to themselves the power to regulate each instance of foreign travel. That method satisfies the statutory concern of securing the accused's presence as effectively as, if not more effectively than, a one-time permission for a single trip.

16. The respondents and the Calcutta High Court have also treated the expression "permission to depart from India" in GSR 570(E) as if it necessarily refers only to a concrete permission for an immediately proposed journey. We do not read the notification in so narrow a manner. Where, as here, the conditions of bail already stipulate that the appellant shall not leave the country without prior permission of the court concerned, and the same court then grants no objection to renewal of the passport without relaxing that condition, the requirement that departure from India shall be subject to judicial permission is built into the very terms of the exemption. The passport authority is not required, at the renewal stage, to demand a schedule of future journeys or visas which may not yet exist. Its task is to see whether, despite pending proceedings, the criminal courts have chosen to keep the possibility of travel open under their supervision. Once that position is clear, GSR 570(E) applies and the bar under Section 6(2)(f) cannot be invoked to refuse renewal altogether.

17. We are also unable to endorse the characterisation by the Division Bench that entertaining the appellant's writ petition would convert the High Court into an "executing court" for the orders of the Delhi High Court and the NIA Court, Ranchi. 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. The criminal court orders were relevant facts which determined whether the appellant fell within the exempted category under GSR 570(E). To direct the passport authority to give effect to that exemption is to ensure compliance with the statute and the notification, not to execute the criminal court's orders.

18. There is yet another aspect. The learned Single Judge treated the subsisting conviction in the Delhi case as an additional reason to sustain refusal under Section 6(2)(f). However, this Court in **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation 2021 SCC OnLine SC 3549** has already drawn a clear distinction between an accused "facing trial in a criminal court" and a person who has been convicted and is pursuing an appeal and how the same can impact the issuance of a passport. The relevant paras of this judgement are as follows:

> *"7. The refusal of a passport can be only in case where an applicant is convicted during the period of 5 years immediately proceeding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years.*
>
> *8. Section 6.2(f) relates to a situation where the applicant is facing trial in a criminal court.*
>
> *9. Admittedly, at present, the conviction of the appellant stands still the disposal of the criminal appeal. The sentence which he has to undergo is*

for a period of one year. The passport authority cannot refuse the renewal of the passport on the ground of pendency of the criminal appeal.

10. The passport authority is directed to renew the passport of the applicant without raising the objection relating to the pendency of the criminal appeal in this Court. Subject to the other conditions being fulfilled, the Interlocutory Application stands disposed of."

19. Moreover, Section 6(2)(f) speaks of "proceedings in respect of an offence alleged to have been committed" and is directed at the pre-conviction stage. Once there is a conviction, the situation falls, if at all, within Section 6(2)(e), which uses a different threshold and language. The Delhi conviction, therefore, could not have been used to reinforce a bar under Section 6(2)(f). In any event, the Delhi High Court, fully conscious of the conviction and sentence, has itself granted no objection for renewal for ten years, while retaining its control over travel.

20. It must also be noted that denial of renewal of a passport does not operate in a vacuum. This Court has repeatedly held in a catena of judgements[6] that the right to travel abroad and the right to hold a passport are facets of the right to personal liberty under Article 21 of the Constitution of India. Any restriction on that right must be

[6] Satwant Singh Sawhney v. D. Ramarathnam 1967 SCC OnLine SC 21, Maneka Gandhi v. Union of India, (1978) 1 SCC 248, Union of India v. Naveen Jindal, (2004) 2 SCC 510

fair, just and reasonable, and must bear a rational nexus with a legitimate purpose.

21. 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. That purpose is fully served in the present case by the conditions imposed by the NIA Court, Ranchi, and the Delhi High Court, which require the appellant to seek prior permission before any foreign travel and, in the NIA case, to re-deposit the passport immediately after renewal. To add to these safeguards an indefinite denial of even a renewed passport, when both criminal courts have consciously permitted renewal, would be a disproportionate and unreasonable restriction on the appellant's liberty.

22. 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. In the present case, both criminal courts have done exactly that. To refuse renewal on the speculative apprehension that the appellant might misuse the passport is, in effect, to second-guess the criminal courts' assessment of risk and to assume for the passport

authority a supervisory role which the statute does not envisage.

23. The reliance placed by the respondents and the Calcutta High Court on the fact that the application for re-issue was made after the original passport had expired is also misplaced. The Passports Act contemplates passports that "continue in force" for a prescribed period. It does not create a separate disability for applicants whose earlier passports have lapsed. Re-issue after expiry is a routine occurrence. The only relevant question remains whether any of the statutory grounds of refusal under Section 6(2) continue to apply in the face of an exemption granted under Section 22 by way of GSR 570(E). For the reasons already discussed, we are of the clear view that they do not in the present case.

24. Finally, even on the respondents' own reading of GSR 570(E), the consequence of an order which does not specify a longer period of validity is that the passport should be issued for a shorter duration, usually one year, and not that renewal must be refused altogether. The learned Single Judge and the Division Bench did not examine this aspect, because they proceeded on the premise that the appellant stood outside the exemption altogether. Once it is recognised that the appellant is within the exempted class, the correct question for the passport authority is the appropriate period of validity in the facts of the case, not whether any renewal is permissible at all. In the present matter, given that the Delhi High Court has expressly

authorised renewal for ten years and the NIA Court has imposed stringent conditions including redeposit and prior permission for travel, we see no justification to curtail the normal period of validity.

25. In the light of the above discussion, we are unable to sustain the approach adopted by the learned Single Judge and the Division Bench. Both have treated Section 6(2)(f) as an absolute bar so long as any criminal proceeding is pending, without giving full effect to the statutory exemption mechanism under Section 22 and GSR 570(E), and without adequately appreciating that the criminal courts actually dealing with the appellant's cases have consciously permitted renewal while retaining stringent control over any foreign travel. They have, in effect, converted a qualified restriction, designed to secure the presence of an accused, into a near-permanent disability to hold a valid passport, even where the criminal courts themselves do not consider such a disability necessary.

26. We clarify that our conclusions are confined to the legal interplay between Sections 5, 6, 7, 8, 9, 10 and 22 of the Passports Act, GSR 570(E) and the OM dated 10.10.2019, on the facts of the present case. We express no opinion on the merits of the criminal proceedings pending before the NIA Court, Ranchi, or on the appeal pending before the Delhi High Court, nor do we dilute in any manner the power of those courts to vary, strengthen or relax the conditions of bail, including conditions relating to travel abroad, in accordance with law.

27. It is needless to observe that nothing in this judgment curtails the powers of the passport authority under Section 10 of the Passports Act. If any future order of a competent court, or any subsequent development, requires impounding or revocation of the appellant's passport, it shall be open to the authority to act in accordance with Section 10 and other applicable provisions. Equally, if the appellant violates any condition imposed by the NIA Court, Ranchi, or the Delhi High Court, it will be open to those courts to take such steps, including modification of bail and recall of permissions, as may be warranted.
28. In the result, the appeal is allowed.
29. The judgment and order dated 04.04.2025 passed by the Division Bench of the High Court at Calcutta in APOT No. 215 of 2024, as well as the judgment and order dated 15.05.2024 passed by the learned Single Judge in WPO No. 352 of 2024, are set aside.
30. The respondents are directed to re-issue an ordinary passport to the appellant for the normal period of ten years from the date of issue, subject to compliance with the usual procedural requirements, within a period of four weeks from the date of production of a copy of this judgment before the RPO, Kolkata. The passport so issued shall remain subject to all existing and future orders passed by the NIA Court, Ranchi, and the Delhi High Court, including, in particular, the conditions that the appellant shall not leave India without prior permission of

the court concerned and shall deposit the passport in that court as and when so directed.

31. All pending interlocutory applications stand disposed of.

.....J.
[VIKRAM NATH]

.....J.
[AUGUSTINE GEORGE MASIH]

NEW DELHI
DECEMBER 19, 2025