



CONSTITUTIONAL LAW

Passport Is A Civil Document, Mere Pendency Of Criminal Case Prima Facie Not Ground To Withhold It: Allahabad High Court

AUTHOR Aditi Gusain

PUBLISHED 9 October 2026

In *Mohd. Aftab v. Union of India and others*, the Allahabad High Court, by an interim order dated September 14, 2026, observed that passport authorities have, prima facie, no business denying a passport merely because a criminal case is pending against the applicant. The Bench of Justice J.J. Munir and Justice Indrajeet Shukla also clarified that holding a passport does not give a person a spontaneous passage across borders.

The Court issued an interim mandamus to the Regional Passport Officer (RPO), Lucknow, directing him to consider the petitioner's application in light of the Supreme Court's decision in *Mahesh Kumar Agarwal v. Union of India*, 2025 SCC OnLine SC 2887.

Table of contents

- [Facts of the Case](#)
- [Issue Before the Court](#)
- [Court's Reasoning](#)
 - [Passport Does Not Confer an Automatic Right to Travel](#)
 - [Role of the Criminal Court in Regulating Foreign Travel](#)
 - [Passport as a Civil Document](#)
 - [Reliance on Mahesh Kumar Agarwal v. Union of India](#)
- [Earlier Position in Pawan Kumar Rajbhar](#)
- [Decision and Interim Relief](#)
- [Legal Significance](#)
- [Conclusion](#)

Facts of the Case

The petitioner's passport was being withheld by the RPO, Lucknow, on the ground that **two criminal cases** were pending against him, both registered at PS Kareli, District Prayagraj:

- **Case Crime No. 32 of 2024**, under Sections 147, 148, 149, 323, 341, 504, 506 and 307 IPC. The petitioner describes it as a no-injury case and a false implication, and he is on bail in it.
- **Case Crime No. 10 of 2024**, under Sections 147, 387, 447, 323 and 427. This case has been challenged before the High Court by an application under Section 528 of the B.N.S.S. Prima facie finding it to be a civil dispute, the Court stayed further proceedings in it by an order dated December 18, 2025.

Issue Before the Court

Whether the **mere pendency of criminal proceedings** can, by itself, justify withholding or refusing issuance of a passport where the applicant has not suppressed the pendency of those proceedings.

Court's Reasoning

Passport Does Not Confer an Automatic Right to Travel

The Bench observed that the mere grant of a passport does not arm the holder with a **spontaneous passage across borders**. The holder must still apply for visas from the host country and go through immigration procedures.

Role of the Criminal Court in Regulating Foreign Travel

The Court said that if the holder of a passport facing criminal proceedings tries to travel abroad, it is always open to the police or the prosecuting agency to move the court to require **surrender of the passport**, so as to prevent the person from leaving Indian shores. It added that the court would not deny permission in every case and may grant it subject to conditions.

These, it held, are matters in the province of the court when a person facing criminal proceedings actually seeks to travel abroad. The issue of a passport, the Bench said, is not that stage.

Passport as a Civil Document

The Court observed that a passport is essentially a **civil document** to which a citizen is entitled under the law. It said it is prima facie no business of the passport authorities to deny a passport on the ground that a criminal case is pending.

It noted one exception: where the pendency of the criminal case is suppressed in the application. The Court found this was not such a case.

Reliance on Mahesh Kumar Agarwal v. Union of India

The Court's reasoning substantially turns on the distinction drawn by the Supreme Court between **possession of a valid passport** and the act of travelling abroad. The Bench said that refusing renewal or reissue of a passport on the ground that a criminal case is pending prima facie appears to be contrary to the law laid down in that decision.

According to paragraph 22, as quoted, whether a person on bail or facing trial may actually leave the country is for the criminal court. That court can:

- grant or withhold permission;
- impose conditions;
- insist on undertakings; or
- refuse leave altogether.

Refusing renewal on a speculative apprehension of misuse amounts to second-guessing the criminal courts' assessment of risk, and to assuming for the passport authority a supervisory role the statute does not envisage.

According to paragraph 25, as quoted, treating **Section 6(2)(f)** as an absolute bar for as long as any criminal proceeding is pending, without giving full effect to the exemption mechanism under Section 22 and GSR 570(E), is not sustainable.

Such an approach converts 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 do not consider such a disability necessary.

Earlier Position in Pawan Kumar Rajbhar

Ms. Anupama Parashar, Central Government Counsel for the Union of India, relied on the Division Bench decision in *Pawan Kumar Rajbhar v. Union of India and others*, 2024:AHC:9963-DB.

The Bench said that whether it agreed with that decision or not, disagreement would ordinarily require a **reference to a larger Bench**. However, it held that such a course was not necessary in the face of the later Supreme Court decision in *Mahesh Kumar Agarwal*, which did not exist when *Pawan Kumar Rajbhar* was decided.

Decision and Interim Relief

The Court admitted the writ petition and permitted the petitioner's counsel to correct the description of respondent No. 2 during the course of the day. Notice was accepted as follows, and each counsel was granted two weeks to file a counter affidavit:

- on behalf of respondents 1 to 3 by Ms. Anupama Parashar;
- on behalf of respondents 4 to 6 by Mr. Pradeep Singh, Standing Counsel.

On Civil Misc. Stay Application No. 1 of 2026, the Court directed an **interim mandamus** to the RPO, Lucknow. He is to consider the petitioner's application for issue of passport, bearing in mind *Mahesh Kumar Agarwal*, or show cause by a counter affidavit why the interim mandamus should not be made absolute.

The Registrar (Compliance) was directed to communicate the order to the RPO through the Chief Judicial Magistrate, Lucknow, within 24 hours.

The matter has been adjourned to September 30, 2026, to be taken up in the cause list of the day for orders, along with a report on the status of pleadings.

Legal Significance

The order reinforces the distinction between the **issuance of a passport** and permission to travel abroad. The Court prima facie held that the mere pendency of criminal proceedings does not, by itself, justify withholding a passport, particularly where the applicant has not suppressed the pendency of those proceedings.

At the same time, possession of a passport does not confer an unrestricted right to travel abroad. Where a person facing criminal proceedings seeks to travel outside India, the question of such travel remains subject to the determination of the competent criminal court. The order therefore treats passport issuance and foreign travel as distinct stages governed by different considerations.

Conclusion

Mohd. Aftab is an **interim, prima facie order**. The respondents have been granted time to file their counter affidavit, and the matter has been listed for orders on September 30, 2026.

At this stage, the order indicates that the mere pendency of criminal proceedings cannot, by itself, be treated as sufficient ground for withholding a passport, particularly where the applicant has not suppressed the pendency of such proceedings, while the regulation of actual foreign travel remains a matter for the criminal court.

The decision is significant for maintaining the distinction between the administrative process of issuing a passport and the judicial process of regulating an accused person’s foreign travel.

Related Practice Areas

Civil & Commercial Litigation