

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

CRM(M) No.736/2025

ZAHOOR AHMAD PAHALWAN ... PETITIONER(S)

Through: - Mr. Saqib Shabir, Advocate.

Vs.

UT OF J&K ...RESPONDENT(S)

Through: - Mr. Ilyas Laway, GA.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER (ORAL)

26.11.2025

1) The petitioner through the medium of present petition has challenged order dated 25.10.2025 passed by the Court of learned Special Judge, Anticorruption, Anantnag (for short "the trial court"), whereby his application for grant of No Objection Certificate for obtaining/renewing passport has been dismissed.

2) Issue notice to the respondent. Mr. Ilyas Laway, GA, enters appearance and accepts notice on behalf of the respondent.

3) It appears that the petitioner is facing trial in a case arising out of FIR No.05/2022 for offences under Section 409, 418, 465, 467, 468, 471, 120-B IPC, 7A, 8, 12 and 13(1) of Prevention of Corruption Act. During the pendency of the

challan against the petitioner, he applied for grant of NOC before the learned trial court for obtaining passport for the purpose of undertaking Hajj Pilgrimage. The said application was considered by the trial court and vide order dated 24.02.2025, NOC was issued by the said court, whereafter the petitioner was granted passport for a limited period of one year as the NOC was given by the trial court only for one year.

4) It seems that the petitioner, pursuant to the NOC granted by the trial court, obtained passport, the validity of which was restricted to one year, and undertook Hajj Pilgrimage, whereafter he again approached the trial court for grant of NOC for obtaining passport for five years.

5) The aforesaid application has been dismissed by the trial court, primarily, on the ground that the same is premature because the earlier NOC granted by the said court is valid upto 23.02.2026. Another ground on which the learned trial court has rejected the application of the petitioner is that he has not produced any documentary proof that would go on to show that he was required to travel abroad in connection with his business.

6) Both the grounds on which the learned trial court has rejected the request of the petitioner for grant of NOC appear to be specious. It is a settled law that every citizen has a legal right to hold a passport and that the said right can be taken

away only in accordance with law. In **Maneka Gandhi vs. Union of India**, (1978) 15 SCC 248, the Supreme Court held that no person can be deprived of his right to go abroad unless there is a law enabling the State to do so. The right to personal liberty includes the right to travel abroad. For travelling abroad, it is mandatory for a citizen to obtain passport. Thus, right to hold a passport is an important constitutional right of a citizen. Therefore, for obtaining passport or NOC, it is not necessary for a citizen to demonstrate before the court or before the Passport Authority that he has some pressing need for travelling abroad. Since a citizen has a right to hold a passport, as such, even without his need for traveling abroad, he is entitled to hold a passport. Thus, the reasoning adopted by the learned trial court that the petitioner has failed to produce the documentary proof with regard to the necessity of his foreign travel, is contrary to the legal position.

7) It is true that NOC granted in favour of the petitioner is going to expire in the month of February, 2026, but since the petitioner has a right to hold a valid passport, he is also entitled to get his passport renewed for further period because the date of expiry of his passport is approaching.

8) Of course, the passport can be issued in favour of the petitioner only in accordance with the rules governing the

field and it can even be refused to him if necessary NOC is not issued by the court before which he is facing trial in a criminal offence. However, a criminal court while considering an application for grant of NOC has only to advert itself to the question as to whether the accused, if allowed to travel abroad, would be available to face the trial. No other factor should influence the decision of the criminal court while considering an application for grant of NOC in favour of an accused who intends to obtain a passport/travel document.

9) In the light of the foregoing discussion, the petition is allowed. The impugned order passed by the learned trial court is set aside and the matter is remanded to the said court to decide the application of the petitioner for grant of NOC afresh in the light of the observations made hereinbefore.

10) A copy of this order be sent to the learned trial court for information and compliance.

(Sanjay Dhar)
Judge

Srinagar
26.11.2025
"Bhat Altaf-Secy"

Whether the order is reportable: Yes/No