

265 CRWP-2448-2022 (O&M)

Mohammad Asif
Vs.
Union of India and others

Present: Mr. V.S. Anand, Advocate
for the petitioner.

Mr. Dheeraj Jain, Sr. Panel Counsel and
Mr. Sahil Garg, Advocate
for respondent No.1-UOI.

Mr. Joginder Pal Ratra, DAG, Punjab.

Prayer in this petition is for issuance of a writ in the nature of habeas corpus for releasing the petitioner, who is a Pakistani national and was awarded rigorous imprisonment for 01 year by the trial Court vide judgment of conviction and order of sentence dated 08.04.2019, in FIR No.60 dated 28.05.2018 under Sections 3/34/20 of Indian Passport Act, 1920 read with Section 14 of Foreigner Act, 1946

Learned counsel for the petitioner submits that the petitioner has already undergone the sentence of 01 year R.I. awarded by the trial Court and even subsequent to that, he has undergone total imprisonment for about 02 years and 09 months.

Reply by way of affidavit of Additional Superintendent, Central Jail, Amritsar, filed in the Court today, is taken on record, in which it is stated that case of the petitioner was recommended vide letter dated 18.07.2019 (Annexure R-1) for seeking permission regarding his deportation. Again a reminder was sent through Additional Chief Secretary (Home), Department of Home Affairs and Justice (Passport Branch), Govt.

of Punjab vide letter dated 03.02.2021 for taking further necessary action. It is further stated that another request letter dated 29.03.2022 is sent to Director (Foreigners), Ministry of Home Affairs, New Delhi and to the Under Secretary (Foreigners), Ministry of Home Affairs, New Delhi regarding the decision taken on deportation of Pakistani National i.e. petitioner Mohammad Asif, however, till date, no action is communicated.

Considering the fact that the petitioner, even if a foreign national, is overstaying in judicial custody for a period more than 02 years and 09 months, on the face of it, it is apparent that aforesaid two officers of Ministry of Home Affairs, New Delhi are taking this matter casually.

Accordingly, both the officers are directed to file affidavits before next date of hearing, failing which they are further directed to appear in person before this Court on 19.04.2022 at 10.00 a.m. to explain the delay in taking the decision on recommendation sent by the Superintendent, Central Jail, Amritsar.

List again on 19.04.2022.

A copy of this order, under the signatures of Special Secretary attached to this Bench, be handed over to Mr. Dheeraj Jain, Sr. Panel Counsel, for its meticulous compliance.

05.04.2022
vishnu

[ARVIND SINGH SANGWAN]
JUDGE