

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.Nos.29359 and 29360 of 2016
and
W.M.P.Nos.25378 and 25379 of 2016

M.Ramchandrar Singh ... Petitioner in W.P.29359/2016

Manju Singh ... Petitioner in W.P.29360/2016

-Vs-

1. State rep.by: Inspector of Police,
CBI/SCB/Chennai
Rajaji Bhawan, Besant Nagar,
Chennai-600 090.
2. The Regional Passport Officer,
Regional Passport Office,
Rayala Towers 2 & 3, IV Floor,
New No.158, Anna Salai,
Chennai-2. ... Respondents in both Writ
Petitions

W.P.No.29359 of 2016 filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the second respondent to issue fresh passport to the petitioner as per Application No.MA2079506434516 dated 14.07.2016 within a time frame fixed by this Court.

W.P.No.29360 of 2016 filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the second respondent to issue fresh passport to the petitioner as per Application No. File No.ARN No.16-1006795445 dated 29.07.2016 within a time frame fixed by this Court.

For Petitioners : Mr.P.Solomon Francis

For Respondents : Mr.K.Srinivasan,
Special Public Prosecutor for CBI
for R1

Mr.T.L.Thirumalaisamy,
Central Government Standing Counsel
for R2

ORDER

These writ petitions have been filed for issuance of a Writ of Mandamus to direct the second respondent to issue fresh passport to the petitioners on the basis of their applications dated 14.07.2016 and 29.07.2016 respectively, within a stipulated time frame.

2.The case of the petitioners is that FIRs came to be registered on them by the respondent police under the Central Excise Act and Prevention of Corruption Act and subsequently they were granted anticipatory bail by this Court. Final reports were also filed by the first respondent and the charges under the Prevention of Corruption Act were dropped and the case filed under the Central Excise Act, is pending trial. While so, they applied for renewal of their passports on expiry of their existing passports, before the second respondent for which they were directed to get an order from this Court for a direction to renew their passports. Hence these writ petitions.

3.When these writ petitions came up for hearing on 23.08.2016, this Court permitted the learned counsel for the petitioners to serve papers on the learned Standing Counsel appearing for CBI.

4.Today, the learned Central Government Standing Counsel appearing for the second respondent, submitted that they have no objection for issuing fresh passport to the petitioners even though criminal proceedings are pending against them, if they are otherwise eligible.

5.As rightly pointed out by the learned Central Government Standing Counsel appearing for the second respondent, merely because a criminal case is pending, there is no embargo or bar for issuance of passport.

6.In this regard, I would like to refer to an earlier order passed by this Court in W.P.No.7653 of 2016 dated 14.03.2016. The petitioner in that case was detained from proceeding abroad on the ground that her father was involved in many criminal cases. This Court held that even if the petitioner therein was facing any criminal proceedings, subject to certain terms and conditions, she can be permitted to go over abroad. The relevant portion of the said order is extracted hereunder:

"10.I heard the learned senior counsel for the petitioner as well as the learned Additional Advocate General appearing for the respondents. From the above factual narration, it is clear that on the date when the petitioner was intercepted on 26.02.2016, while proceeding to Bangalore in a car, there was no case registered or pending against her. The petitioner was detained only for the purpose of conducting an enquiry inter alia to ascertain the

whereabouts of her father. According to the petitioner, she has no knowledge about the whereabouts of her father and since her childhood, she is pursuing her education by staying in a hotel. It is also specifically contended that the petitioner has disclosed everything truly without suppressing any material particulars during the enquiry conducted in the fourth respondent police station. In other words, the petitioner participated in the enquiry conducted by the respondents and fully cooperated with the fourth respondent in the conduct of such enquiry.

11. It is seen from the records that the petitioner has been detained only on the ground that her father is involved in many criminal cases and his whereabouts are not known. However, in order to secure the presence of the father of the petitioner, detaining the petitioner from proceeding to abroad to pursue her higher studies is not justified. In my considered opinion, the petitioner has been detained only to ensure that her father comes out of his hideout, if she is detained from proceeding abroad. Such a course adopted by the respondents is not in accordance with law. If the petitioner has committed any offence, she can be prosecuted. Even if the petitioner is facing any criminal proceedings, subject to certain terms and conditions, she can be permitted to go over abroad. Even such a course has not been adopted in this case. As rightly pointed out by the learned senior counsel for the petitioner, the respondents, after taking time for filing counter in this writ petition, have submitted a report to the learned Judicial Magistrate No.I, Kancheepuram on 10.03.2016 praying to implicate the petitioner also as an accused in Crime No. 117 of 2016. It is seen from the records that the learned Judicial Magistrate No.I, Kancheepuram refused to accept such a plea inasmuch as there is no materials made available to connect the petitioner also as an accused. At any rate, the filing of the report dated 09.03.2016 on 10.03.2016 before the learned Judicial Magistrate No.I, Kancheepuram to implead the petitioner also as an accused in Crime No. 117 of 2016 is certainly an after-thought invented by the respondents 3 and 4 to some how or the other prohibit the petitioner from proceeding out of India to pursue her higher studies. As regards the plea of the petitioner, the petitioner enclosed the details with regard to her pursuing B.B.A. Course with University of Essex, United Kingdom wherein it is clearly stated that the petitioner is pursuing her last year of the B.B.A. Course during the academic year 2013-2016.

12. In the decision relied on by the learned senior counsel for the petitioner in (Arockia

Jeyabalan vs. The Regional Passport Officer, Mount Road, Chennai and others) 2014 4 Law Weekly 841 this Court had an occasion to consider that validity of the lookout circular. In that case, based on the look out notice issued by the respondents therein, the petitioner therein was arrested and remanded to judicial custody. Thereafter, the petitioner therein was released on bail. Therefore, it was held that the object of the Look out Circular is to ensure the presence of a person for interrogation, trial or inquiry and when the purpose of such circular is served by interrogating the person, thereafter, such circular is non-est in the eye of law. Even in this case, the petitioner was subjected to enquiry at length by the fourth respondent and therefore, keeping the look out notice in force is impermissible.

In the light of the above, the writ petition is allowed. No costs. The respondents are directed not to prevent the petitioner from proceeding to London to continue her studies and the Look Out Circular issued by the second respondent need not be enforced against the petitioner. However, the petitioner is directed to furnish the details such as address where she stays abroad, contact address for communication, mobile number, e-mail id, period of stay, her probable date of return etc., to the third and fourth respondents before leaving India. Consequently, connected WMP No. 6877 of 2016 is closed."

7. In such view of the matter, the second respondent herein is directed to consider the applications of the petitioners dated 14.07.2016 and 29.07.2016 respectively, which were made for renewal of their passports, and pass appropriate orders in accordance with law, if they are otherwise eligible. However, the petitioners are directed to furnish the details such as the place of travel, departure, arrival and also the address where they would stay abroad, contact address for communication, mobile number, e-mail id, period of stay, probable date of return etc., to the first respondent in the event of travel to overseas.

8. The writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
CBI/SCB/Chennai
Rajaji Bhawan, Besant Nagar,
Chennai-600 090.

2. The Regional Passport Officer,
Regional Passport Office,
Rayala Towers 2 & 3, IV Floor,
New No.158, Anna Salai,
Chennai-2.

+1cc to Mr.P.Solomon Francis, Advocate, S.R.No.61497

W.P.Nos.29359 and 29360 of 2016
and

W.M.P.Nos.25378 and 25379 of 2016

SKV(CO)
CA(02/12/2016)



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