



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P(MD) No.20656 of 2016

R.Robinson

..Petitioner

-vs-

The Inspector of Police,
Commercial Crime Investigation Wing
CID (CCIW CID),
Nagercoil, Kanyakumari

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondent to return the petitioner's passport bearing No.J5514058 to him forthwith.

For Petitioner : Mr.L.Shaji Chellan
For Respondent : Mr.K.P.Krishna Das
Government Advocate

O R D E R

The prayer sought for in this writ petition is to issue a direction to the respondent to return the passport of the petitioner bearing No.J5514058 forthwith.

2.The case of the petitioner is that he has been falsely implicated in Crime No.3 of 2003 on the file of the respondent for the alleged offences under Sections 406, 419, 420, 468 r/w 34 and 109 IPC. The respondent filed final report, which was taken on file in C.C.No.25 of 2006 by the Judicial Magistrate No.II, Tirunelveli. The other accused, in this case, filed discharge petition in CrI.M.P.Nos.1806 to 1808, 1887, 1888 and 2011 of 2006 to discharge them from the case.

3.The petitioner would state that while dismissing the discharge petition, the Judicial Magistrate No.2, Tirunelveli, ordered re-investigation, but so far, the respondent police have not conducted any enquiry and file a final report. While so, when the petitioner was in Saudi Arabia for employment and for education of his daughter Jasmin R.Gifty, he came to India for surgery of his serious kidney problem. At the time, he was arrested by the respondent police on 31.08.2016 and remanded to judicial custody. He was granted bail by this court in CrI.O.P (MD)No.17998 of 2016 on 23.09.2016 on condition, which was also subsequently relaxed in CrI.M.P.(MD)No.9646 of 2016 on 07.10.2016.



4.The petitioner would further state that at the time of arrest, the passport of the petitioner was recovered by the Airport authorities and handed over to the respondent police and now, it is in the custody of the respondent. The petitioner needs the passport urgently for his daughter's study and for his employment in abroad.

5.Mr.L.Shaji Chellan, learned counsel appearing for the petitioner would submit that the petitioner is ready to appear before the trial court for all future hearings, during trial and he will cooperate for early disposal of the case. However, due to non conduct of the reinvestigation, as per the of the Judicial Magistrate No.2,Tirunelveli, the case is not taken up for trial. The petitioner has also filed an undertaking affidavit and in para No.4, he has given undertaking to appear before the trial court for all future hearings during the trial.

6.The learned counsel would further submit that the petitioner's property worth about 18 lakhs was already attached by the respondent and he will not take steps to raise attachment, till the conclusion of the case and he undertakes that he will not alienate or encumber the property.

7.The learned Government Advocate appearing for the respondent, on instructions, would submit that against the order of the Judicial Magistrate No.2, Tirunelveli, in the discharge petition, the respondent has filed a revision before the Sessions Court and the same is pending and if the passport of the petitioner is handed over, he will flee from India, then it would be difficult for the respondent police to secure the petitioner.

8.Considering the facts and circumstances of the case and also considering the submissions made on either side and also taking into account the affidavit filed by the petitioner, this writ petition is disposed of; (a) directing the respondent to return the passport of the petitioner forthwith; and (b)the petitioner shall appear before the trial court, whenever his presence is required.

9.It is represented by the learned Government Advocate that the passport of the petitioner is now available with the Investigating Officer, who is present before this court today. The Investigating officer agrees to hand over the passport to the learned counsel for the petitioner, as per the order of this court. Accordingly, the passport is handed over across the bar.

10.The Writ Petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar(P&A)



To,
1.The Inspector of Police,
Commercial Crime Investigation Wing
CID (CCIW CID),
Nagercoil, Kanyakumari.

2.The Government Advocate,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.L.Shaji Chellan, Advocate in SR.68490

W.P. (MD) No.20656 of 2016
14.11.2016

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