



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.19417 of 2017

Balamurugan

... Petitioner

Vs.

The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Regional Passport Office,
Bharthi Ula Veethi, Race Course Road,
Madurai - 625 002.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to issue passport to the petitioner based on his application bearing file No.MD1069779131116, dated 22.11.2016 within a time frame that may be fixed by this Court.

For Petitioner : Mr.K.Neelamegam
For Respondent : Mr.S.Jeyasingh

ORDER

This writ petition has been filed seeking a Writ of Mandamus, directing respondent to issue passport to the petitioner based on the petitioner's application bearing file No.MD1069779131116, dated 22.11.2016, within a time frame that may be fixed by this Court.

2.It is the case of the petitioner that he had made an online application seeking passport on 22.11.2016 under Ref.No. MD1069779131116 and the same has been kept pending on the reasoning that cases in Crime Nos.496 of 2016, 185 of 2017, 317 of 2017 and 328 of 2017 have been registered against the petitioner and others. It is the further case of the petitioner that the above cases have been registered on biased motive. The petitioner has also relied upon a judgment of the Hon'ble Division Bench of this Court in the case of **W.Jaihar William vs. The State of Tamil Nadu [W.P.(MD) Nos.8343 to 8350 of 20140] decided on 27.06.2014** in support of his submission that mere pendency of a criminal case is not a ground for refusing to issue passport. Hence, aggrieved by the overall act of the respondent, the petitioner is before this Court with the



aforesaid prayer.

3.The learned Standing Counsel appearing for the respondent has contended that while processing the petitioner's application, the pendency of criminal proceedings was reported by the police officials and the petitioner himself admitted the same. Therefore, as per section 6(2)(f) of Indian Passports Act, 1967, the authorities had rejected his claim.

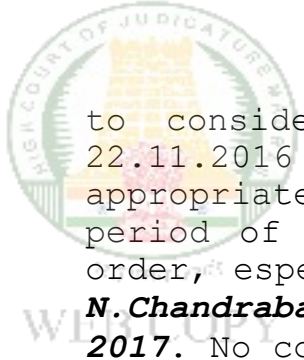
4.In reply to this stand taken by the respondent, the learned Counsel appearing for the petitioner placed reliance upon the order of this Court in the case of ***N.Chandrababu Vs. The Sub Inspector of Police in W.P. (MD)No.7056 of 2017***, wherein, this Court has held as follows:

"7. On a conspectus of the facts obtaining in this case, this Court is of the view that this is a fit case for which permission should be granted to the petitioner to go abroad. Under such circumstances, this Court permits the petitioner to depart from India and return on 30th May 2017. In view of the permission granted by this Court, the Passport authorities are directed to exempt the petitioner from the operation of the provisions of Clause (f) of sub-Section (2) of Section 6 of the Passports Act. The petitioner shall give an undertaking as contemplated by Clause (d) of the Notification dated 25.08.1993. The petitioner will be entitled to keep the passport with him, in view of the fact that this Court has granted stay of all further proceedings in C.C. No.21 of 2015 and it may not be necessary for the petitioner to come every time to this Court seeking permission to go abroad. Accordingly, this writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed."

5.Heard the learned Counsel for the parties.

6.A careful scrutiny of the order ***dated 21.04.2017*** passed in ***N.Chandrababu Vs. The Sub Inspector of Police in W.P. (MD)No.7056 of 2017*** would reveal that in the said case, this Court has clearly observed that though the concerned Trial Court had taken cognizance of the offence, pursuant to the subsequent stay granted by this Court, which was in force at that point of time, nothing prevented the Passport authorities to issue Passport to the petitioner therein. But, in the present case on hand, till now, neither even a charge sheet has been filed before the concerned Trial Court nor cognizance has been taken by any Court of Law and therefore, it may be presumed that the cases are only at the FIR stage and mere pendency of the criminal cases cannot be cited as a reason for denial of issuance of Passport to the petitioner.

7.Hence, following the judgment of this Court (cited supra), this writ petition is disposed of, directing the respondent



to consider the Application Reference No.MD1069779131116, dated 22.11.2016 of the petitioner seeking passport and to pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order, especially bearing in mind the order passed by this Court in **N.Chandrababu Vs. The Sub Inspector of Police** in **W.P.(MD)No.7056 of 2017**. No costs.

Sd/-
Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

The Regional Passport Officer,
Government of India,
Ministry of External Affairs,
Regional Passport Office,
Bharthi Ula Veethi, Race Course Road,
Madurai - 625 002.

+ 1 CC TO Mr.K.NEELAMEGAM, ADVOCATE IN SR No. 84425
+ 1 CC TO Mr.S.JEYASINGH, ADVOCATE IN SR No. 84423

SMN
TE/MR-KKR/SAR-III : 09/11/2017 : 3P/4C

W.P.(MD)No.19417 of 2017
31.10.2017