

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.7220 of 2019  
and  
Crl.M.P.No.3983 of 2019

Noushad Thazhaith

.. Petitioner

Vs

1.State represented by its  
Deputy Superintendent of Police,  
CB CID, Special Investigation Team,  
Coimbatore,  
Crime No.2111 of 2002.  
(B4 Race Course Police Station).

2.The Regional Passport Officer,  
Regional Passport office,  
Kozhikode,  
Eranhinpalam Post,  
Kozhikode - 673 006,  
Kerala State.

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to direct the 1<sup>st</sup> respondent to give No Objection to enable the 2<sup>nd</sup> respondent to grant passport for a period 5 years to travel abroad for his business purpose, pending criminal case in P.R.C.No.2 of 2013 on the file of the learned Judicial Magistrate No.III, Coimbatore.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.C.Raghavan (for R1)  
Government Advocate (Crl.Side)  
Mr.N.Vijaya Bhaskar, CGSC for R2

O R D E R

This petition has been filed seeking for a direction to the 1<sup>st</sup> respondent to give No Objection to enable the 2<sup>nd</sup> respondent

to grant Passport for a period of 5 years to enable the petitioner to travel abroad for his business.

2.The petitioner has been added as A2 in the proceedings pending in PRC.No.2 of 2013 on the file of the learned Judicial Magistrate No.3, Coimbatore.

3.This Court had an occasion to consider the similar issue and also passed an order in favour of the petitioner in Crl.O.P.No.5068 of 2018. The said order is extracted hereunder:

"The petitioner is facing trial in PRC No.2 of 2013 before the Judicial Magistrate No.III, Coimbatore for the offences under Section 4 (a) and 6 r/w 4(G) of the Explosive Substance Act, 1908. The petitioner has filed a quash application in Crl.O.P.No.3532 of 2018 challenging the prosecution and the same is pending before this Court. The petitioner is the holder of Indian Passport bearing No. H 5939876 issued at Kozhikode, Kerala on 09.09.2009 valid upto 08.09.2019.

2.It is the case of the petitioner that he has business interest in the Middle East and that he has been going abroad frequently on valid visa. It is his further case that the pages in his passport got exhausted and therefore, when he applied for a fresh passport, the Passport Authorities directed him to obtain necessary permission under Section 6(2)(f) r/w Section 22 of the Passports Act r/w Notification No. GSR 570 E dated 25.08.1993. Hence, the petitioner has filed the present application for permission.

3.Heard Mr.N.Manokaran, learned counsel for the petitioner, Mr.C.Raghavan for the respondent Police and Mr.N.Vijaya Baskar for 2<sup>nd</sup> respondent Passport Authorities.

4.Under normal circumstances, in a case of this nature, this Court would not grant permission for the petitioner to go abroad. However, it is seen that this petitioner has been granted permission earlier by the learned Judicial Magistrate No.III, Coimbatore vide order dated 03.11.2015 in CMP.No.4280/2015 and by this Court in Crl.O.P.No.22055/2016 dated 10.02.2017. The learned Judicial Magistrate No.III, Coimbatore in his order dated 03.11.2015 has noted that the petitioner has been appearing regularly before the Court from 2013 onwards and because of the failure of the prosecution to summon the co-accused, the Magistrate has not been able to commit the case to the Court of Sessions. Only this aspect has weighed in the mind of this Court for positively considering the request of the petitioner. The law

with regard to grant of permission for renewal of passport has been settled by this Court in N.Chandrababu vs. Sub Inspector of Police Palakkarai Police Station, Trichy [2017 (3) CTC 493] and it may not be necessary to recapitulate the legal propositions.

5.Suffice it to say that, when a criminal case is pending before a Court, passport can be issued or renewed only on the basis of production of orders from the concerned Court permitting the applicant to depart from India. In notification NOGSR 570 B, the conditions under which a passport or travel documents could be issued has been enumerated. Taking into consideration the earlier conduct of the petitioner, as noted by the Judicial Magistrate No.III in his order dated 03.11.2015, this Court grants permission to the petitioner to depart from India and return within a period of eight months from the date of this order. Exemption is granted to the petitioner from the operations of the provisions of Clause (f) sub section (2) of Section 6 of the Passports Act, for a period of eight months from the date of this order. The petitioner shall abide by the conditions set out in the notification dated 25.08.1993."

4.The petitioner was permitted to leave India and he was directed to return back within a period of eight months. The petitioner complied with this order. This was also recorded by this Court and the petition was closed.

5.The learned counsel for the petitioner submitted that the petitioner wants to visit foreign countries for business purposes and therefore, the present petition has been filed seeking for a similar relief.

6.Heard the learned Government Advocate appearing on behalf of the 1<sup>st</sup> respondent Police.

7.In view of the earlier order that was passed by this Court and extracted herein above, this Court is inclined to pass similar order in favour of the petitioner that when a criminal case is pending before a Court, passport can be issued or renewed only on the basis of production of orders from the concerned Court permitting the applicant to depart from India. In notification NOGSR 570 B, the conditions under which a passport or travel documents could be issued has been enumerated. Taking into consideration the earlier conduct of the petitioner, as noted by the Judicial Magistrate No.III in his order dated 03.11.2015, this Court grants permission to the petitioner to depart from India and return within a period of

one year from the date of this order. Exemption is granted to the petitioner from the operations of the provisions of Clause (f) sub section (2) of Section 6 of the Passports Act, for a period of one year from the date of this order. The petitioner shall abide by the conditions set out in the notification dated 25.08.1993.

8.This Criminal Original Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs/vv

To

- 1.The Judicial Magistrate No.III,  
Coimbatore.
- 2.do thro The Chief Judicial Magistrate,  
Coimbatore.
3. The Deputy Superintendent of Police,  
CB CID, Special Investigation Team,  
Coimbatore.
- 4.The Public Prosecutor,  
High Court, Madras.

+1 cc to Mr.N.Manokaran, Advocate, Sr.No. 46004

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and

Crl.M.P.No.3983 of 2019

CSL/25.06.2019

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