



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.11.2019

Coram::

The Honourable Mr.Justice M.S.RAMESH

Criminal Original Petition No.29114 of 2019

Dr.Mariano Anto Bruno,
Mascarenhas,
S/o.S.John Prix Mascarenhas,
10/35, Muthamman Koil Street,
Ayanavaram, Chennai - 23. ... Petitioner

/versus/

1. State rep. by,
Inspector of Police,
K2- Aynavaram Police Station,
Chennai.
2. The Regional Passport Officer,
Saligramam, Chennai - 93. ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, 1973, praying to direct the 1st respondent to give "No Objection Certificate" to enable 2nd respondent to grant passport to the petitioner and pass orders.

For Petitioner : Mr.R.Radha Pandian

For R1 : Mr.C.Iyyapparaj
Additional Public Prosecutor

For R2 : Mr.A.Kumaraguru

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents 1 & 2.

2. The petitioner is facing Criminal trial in S.C.No.209/2016 before the Hon'ble Mahila Sessions Court, Chennai, for the offences under Sections 306 & 498 A of I.P.C. Incidentally, the petitioner claims to have been selected for participating in Deep dive courses on Health System Reform in

Washington (U.S.A) between 06.11.2019 to 15.11.2019. The selection order dated 04.10.2019 issued by the Tamil Nadu Health System Reform Program has been produced before this Court which evidences the petitioner's participation for the course of quality of care to be conducted between 07.11.2019 to 09.11.2019 and the Data Science and Technology innovation for improved Human capital conducted between 11.11.2019 to 15.11.2019.

3. The Learned Standing Counsel appearing for the 2nd respondent submitted that the procedure for permitting persons facing a criminal trial to depart from India is provided under Gazette notification in GSR.570(E) of 1993, dated 25.08.1993, which stipulates that such person who is facing the criminal trial can be permitted to leave the country by obtaining an order from the Court in which he is facing the Criminal trial. It is his submission if such an order is obtained, the respondents may scrutinise the petitioner's application for issuance of the passport.

4. It is stated that the Criminal Case in S.C.No.209/2016 is posted for trial on 26.11.2019 and the period for which the petitioner intends to travel is only between 06.11.2019 to 15.11.2019. Apparently the petitioner will be in a position to return back to India for the purpose of participating in Criminal proceedings.

5. The petitioner claims that he has filed an application before the concerned Criminal Court seeking for a direction for issuance of "No Objection Certificate" from the Inspector of Police, K2-Aynavaram Police Station, Chennai, to enable the Regional Passport Officer to issue the passport, which application has been returned. Though, the prayer sought for in the application is made before the Criminal Court is not as per the guideline provided in the Gazette notification, it would not be appropriate to direct the petitioner to approach the concerned Criminal Court once again, since the petitioner intends to leave the Country within four days from today, which includes the intervening weekend. In these peculiar circumstances, this Court is of the view that the powers under Section 482 of the Cr.P.C could be invoked and the Regional Passport Officer could be directed to issue the passport. It is made clear that this order is made only in the circumstances of this case and same shall not be quoted in any other situations.

6. In the light of above observation, liberty is granted to the petitioner to make an application forthwith seeking for issuance of Passport and on such application, the Regional Passport Officer is called upon to treat this as a

special case and endeavour to issue the passport to the petitioner, preferably within two days, from the receipt of the application. It is open to the Regional Passport Officer to insist upon compliance of all the requirements specified under the Passport Act for the purpose of issuance of the Passport. The petitioner shall also give a letter of undertaking before the Regional Passport Officer to return back to the Country, atleast before 25.11.2019 and also furnish the details of his place of stay, during his visit at U.S.A in the application to be filed along with his application. It is also open to the Regional Passport Office to issue a passport for a temporary period.

7. Accordingly, the Criminal Original Petition stands disposed of.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Copy to,

1. The Inspector of Police,
K2- Aynavaram Police Station,
Chennai.
2. The Regional Passport Officer,
Saligramam, Chennai - 93.
3. The Additional Public Prosecutor,
Madras High Court, Chennai.
- 4.The Sessions Judge
Mahila Sessions Court,
Chennai

+1 cc to M/s.R.RadhaPandian Advocate sr90856

Crl.O.P.No.29114 of 2019

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