



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.7250 of 2019

and

W.M.P. (MD) No.5803 of 2019

Xavier Derober David

... Petitioner

Vs

1.The Regional Passport Office,
Madurai Bharathi Ula Veethi,
Race Course Road,
Maduari - 625 002,
Tamil Nadu.

2.The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Thirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to issue passport to the petitioner based on the petitioner's application in Application No.MD2069354510316, dated 12.05.2016.

For Petitioner : Mr.L.P.Maurya

For Respondents : Mr.V.Kathirvelu

Additional Solicitor General

Assisted by Mrs.Ragaventhri

Central Government Standing Counsel for R1

: Mr.K.Mu.Muthu

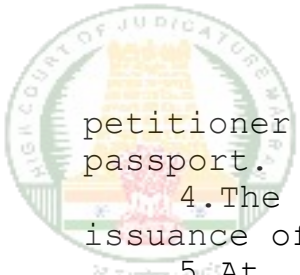
Additional Government Pleader for R2

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Solicitor General appearing for the first respondent and the learned Additional Government Pleader appearing for the second respondent.

2.The petitioner applied for issuance of passport, the same was closed and intimation was given to the petitioner vide letter dated 21.11.2017. The petitioner appears to have got an overseas employment and he is urgently in need of passport. Even though the impugned communication is dated 21.11.2017, he had approached this Court only now.

<https://hcservices.ecourts.gov.in/hcservices/>
3. When the matter was taken up for hearing, the learned Additional Solicitor General submitted that the petitioner's application was closed in the year 2017 itself and therefore the



petitioner will have to submit a fresh application for issuance of passport.

4. The petitioner is permitted to submit a fresh application for issuance of passport.

5. At the stage, the learned Additional Government Pleader appearing for the second respondent stated that there are criminal cases pending against the writ petitioner. It appears that there are totally three cases. Two cases are pending only at the FIR stage. It is well settled that pendency of a criminal case at the FIR stage is not a bar or impediment for issuance of passport. However, Crime No.155 of 2015 is another case that is said to have been registered against the writ petitioner. The petitioner's counsel would state that he is not shown as accused in the FIR. But the learned Additional Government Pleader appearing for second respondent asserts that the petitioner was implicated as the 27th accused and charge sheet has also been filed in the said case and taken on file in P.R.C.No.121 of 2017 on the file of the learned Judicial Magistrate, Valliyoor and the matter is pending at the summons stage. The petitioner's counsel would assert that he has not received any summon in the said case.

6. When charge sheet has been filed and taken on file by the Court concerned, it is only the jurisdictional Criminal Court that will have to grant clearance to the person applying for issuance of passport. However taking note of the fact that the employment prospect of the writ petitioner is involved, this Court is of the view that relief can be granted in this case. The learned counsel appearing for the petitioner gives an undertaking that in the event of the petitioner being shown as an accused in P.R.C.No.121 of 2017, he would engage a counsel by giving special vakalat for him so that the committal or the regular trial proceedings are not affected by his absence. The Committal Magistrate as well as the Trial Judge are directed to permit the petitioner to be represented through such a counsel, in the event or the petitioner being an accused in that case. Since this Court has come to conclusion that the pendency of the criminal cases cannot be a bar for issuance of passport. The first respondent is directed to issue passport to the petitioner subject to the fulfillment of all the other formalities. Since the petitioner is said to have been involved in three criminal cases, this Court directs the first respondent to restrict the period of validity of the passport for two years.

7. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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To: **மதுரை**

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1.The Judicial Magistrate, Valliyoor.

2.The Regional Passport Office,
Madurai Bharathi Ula Veethi,
Race Course Road,
Maduvari - 625 002,
Tamil Nadu.

3.The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Thirunelveli District.

+1 CC to M/s.SPL GP (SR-57394[F] dated 28/03/2019)

+1 CC to M/s.S.MUTHUKUMAR, Advocate (SR-57520[F] dated 28/03/2019)

+1 CC to M/s.L.P.MAURYA, Advocate (SR-57522[F] dated 28/03/2019)

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