



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.15741 of 2019

Jeni Abishek Mon Antony

... Petitioner

-Vs-

1.The Passport Officer,
Bharathi Ula Street,
Race Course Road,
Madurai.

2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

...

Respondents

(R2 is impleaded vide order dated 22.07.2019
made in W.M.P.(MD) No.12728 of 2019)

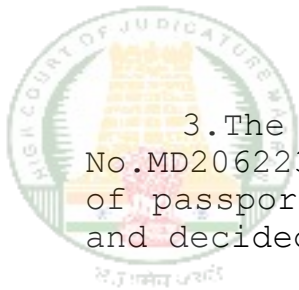
Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondent to issue the passport to the petitioner by considering the application bearing No.MD2062237921919 within the period that may be stipulated by this Court.

For Petitioner : Mr.P.Shanmuga Raja
For Respondents : Mr.V.Kathirvelu, ASG of India
assisted by Mr.G.Moovendran, CGSC
for R1
Mr.P.Kannithevan, AGP for R2

ORDER

The prayer in this writ petition is for a Writ of Mandamus, directing the respondents to issue passport to the petitioner by considering the application bearing No.MD2062237921919 within the period that may be stipulated by this Court.

2.Heard Mr.P.Shanmugaraja, learned counsel appearing for the petitioner and Mr.V.Kathirvelu, learned Assistant Solicitor General of India assisted by Mr.G.Moovendran, learned Central Government Standing Counsel appearing for the 1st respondent and Mr.P.Kannithevan, learned Additional Government Pleader appearing for the 2nd respondent, who has subsequently been impleaded.



3.The petitioner has made an application in application No.MD2062237921919 on 27.06.2019 to the 1st respondent for issuance of passport. However, the said application has not been processed and decided so far. Therefore, the petitioner is before this Court.

4.In this regard, the learned Additional Solicitor General appearing for the 1st respondent would submit that, during the processing of the application of the petitioner, it is found that, there is an adverse police verification report received against the petitioner from the 2nd respondent i.e., the Karungal Police Station, alleging that, in crime No.231 of 2018 on the file of the said police station, there is a criminal case pending against the petitioner for the alleged offences punishable under Sections 147, 294(b), 324 and 506(2) of I.P.C. read with Section 4 of TNPWH Act and therefore, in that view of the pendency of the criminal case, the application of the petitioner could not be processed further.

5.However, on instructions from the 2nd respondent, the learned Additional Government Pleader would submit that, a charge sheet has been filed before the concerned jurisdictional Magistrate, however, the same is not taken on file. Therefore, in the eye of law, since the charge sheet is not taken on file and the case has not become calender case, it is still pending at the stage of FIR.

6.At the same time, the learned counsel appearing for the petitioner submits that, the petitioner was the minor at the time of the alleged commission of offence and therefore, if at all, charge sheet is filed against other accused as there were four accused including the petitioner in the said case before the concerned jurisdictional Magistrate Court, he had no jurisdiction to take cognizance of the charge sheet and in this regard, since the petitioner was the minor at the time of alleged commission of the offence, only the Juvenile Justice Board has to deal with the matter. Therefore, as of now, it cannot be stated that, there is any charge sheet pending against the petitioner.

7.I have considered the said submissions made by the learned counsel for the parties and in view of the fact that, the petitioner was the minor at the time of the alleged commission of offence pending with the 2nd respondent police and in this regard, admittedly, no charge sheet has been filed before the Juvenile Justice Board and in that view of the matter, it cannot be construed that, there is a case pending with the charge sheet, having accepted by the competent Court or Board against the petitioner and therefore, this Court is of the view that, the 1st respondent passport issuing authority can independently decide the application on merits and pass final orders thereon.

8.In that view of the matter, this Court is inclined to dispose of this writ petition with the following direction:

<https://hcservices.ecourts.gov.in/hcservices/>



"The 1st respondent shall consider the said application of the petitioner dated 27.06.2019 for issuance of a new passport and in this regard, it is open to the 1st respondent to get whatever information from the petitioner with regard to the alleged pendency of the case and other aspects, by giving separate notice to him, and after getting the reply from the petitioner with regard to the said pendency of the case and in other aspects, the application of the petitioner can be decided on merits by the 1st respondent and final order to that effect shall be passed, within a period of 6 weeks from the date of receipt of a copy of this order.

It is made clear that if ultimately any charge sheet has been laid before the Juvenile Justice Board in respect of the said case pending against the petitioner and if it has any barring on the issuance of passport, the 1st respondent authority can take whatever action permissible under law against the petitioner, including the surrender of passport, if it is issued in the meantime."

9. With this direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Passport Officer,
Bharathi Ula Street,
Race Course Road,
Madurai.
2. The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

**Order made in
W.P. (MD) No. 15741 of 2019**

**Dated:
29.07.2019**

CS (18.09.2019) 3P 3C