



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.20179 of 2021

P.Rajasekaran

... Petitioner /Petitioner/
Accused

vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.

2.The State rep. by
The Inspector of Police,
Keeravalavu Police Station,
Crime No.183/2012 & 223/2012

3.The State rep. by
The Inspector of Police,
Othakkadai Police Station,
(Crime No.388 of 2013)

4.The Regional Passport Officer,
Office of the Regional Passport Officer,
Bharathi Ulla Street, Race Course Road,
Madurai.

... Respondents 1 to 4/
Respondents 1 to 4/
Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order made in Cr.M.P.No.3008 of 2021 in Spl.S.C.No.40 of 2021 on the file of the Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D&R) Act, 1957, Madurai dated 07.12.2021 and consequently, directing the fourth respondent to issue passport based on the Application No.20-1004492037 dated 15.10.2020.

For Petitioner : Mr.S.Ramsundarvijayraj

For R1 to R3 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

For R4 : Mr.A.Moovendran



O R D E R

Heard the learned counsel for the petitioner, learned Additional Public Prosecutor for R1 to R3 and Mr.A.Moovendran, learned Central Government Standing Counsel for R4.

2. The petitioner is a holder of an Indian Passport. The passport validity period had already expired. Seeking renewal, he filed Cr.M.P.No.3008 of 2021 before the Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioner had to do so because Spl.S.C.No.40 of 2021 filed against him is pending for trial before the Special Court. Apart from the said case, there are few other cases pending against him. In such circumstances, without the permission of the Court concerned, the petitioner cannot obtain the passport. The court below, by the impugned order dated 07.12.2021, rejected the request. The rationale of the learned Special Judge is that there are as many as six cases pending against the petitioner which involves causing of wrongful loss to the Government to the tune of more than 4 ½ crores of rupees. In view of the gravity of the offences, there is every possibility that the petitioner will abscond and not return to India, in case he left the country.

3. Merely because the petitioner has quite a few cases pending against him some of which are grave, I cannot straight away come to the conclusion that he is likely to flee the country. The Courts should not lose sight of the fact that the right to travel abroad is a fundamental right. When a fundamental right is sought to be limited or deprived, a high threshold has to be met. The reasons given by the court below in my view do not pass the said test. The criminal cases are pending against the petitioner from the year 2013 onwards. During this eight years period, the petitioner had obtained orders both from this court as well as from the trial court. He had gone abroad and returned. If the petitioner really wanted to abscond, he need not wait for eight years and more. It is beyond dispute that the petitioner has roots in Madurai District. He is the President of Jallikattu Peravai.

4. The petitioner gives an undertaking before this Court that he will attend the court hearings either in person or through counsel.

5. The fourth respondent is directed to consider the petition mentioned application and renew his passport subject to fulfilment of the usual formalities. The validity of the passport will



however be restricted to one year. As rightly pointed out by the learned Additional Public Prosecutor, the scope of this petition is only for directing issuance of passport in favour of the petitioner for a limited period. When the petitioner proposes to leave India, he shall give due intimation to the jurisdictional Police and also the concerned Courts. The petitioner is a business man. Therefore, depriving his right to travel abroad may even cut off his lifeline. Thus, the petitioner's fundamental right both under Article 21 as well as under Article 19(1)(g) of the Constitution are involved. The petitioner gives an undertaking through his counsel that the tour plan will be limited to 45 days. In view of the above, the order impugned in this petition is set aside. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Madurai District.
- 2.The Inspector of Police,
Keeravalavu Police Station.
- 3.The Inspector of Police,
Othakkadai Police Station.
- 4.The Regional Passport Officer,
Office of the Regional Passport Officer,
Bharathi Ula Street, Race Course Road,
Madurai.



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.RAMSUNDARVIJAYRAJ, Advocate (SR-39421[F] dated
17/12/2021)

Crl.O.P.(MD)No.20179 of 2021
17.12.2021

RK(31/12/2021) 4P 7C