

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.NO.17276 OF 2022

AND

W.M.P.NO.16603 OF 2022

Yasar Arafath

... Petitioner

Vs.

1. The Regional Passport Officer,  
Regional Passport Office,  
First Floor, Corporation Commercial Complex,  
Thandumariamman Koil, Avinashi Road,  
Coimbatore - 641 018.

2. The Inspector of Police,  
Salem Town Police Station,  
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication/letter in Letter reference No.SCN/312396839/22 dated 31.03.2022 of the first respondent and quash the same as illegal and consequently direct the first respondent to issue passport to the petitioner vide File No.CB2064039673122 on 16.03.2022 within time frame stipulated by this Court by considering the petitioner's representation dated 11.04.2022 in the light of the judgment of this Court in Venkatesh Kandasamy Vs. Government of India reported in AIR 2015 MAD 3.

For Petitioner : Mr.I.Abdul Basith

For Respondents : Ms.A.Anuradha,  
Central Government  
Standing Counsel [R1]  
Mr.R.Murthi,  
Government Advocate (Crl.Side) [R2]

## ORDER

This Writ Petition has been filed challenging the impugned communication dated 31.03.2022, calling upon the petitioner to submit an explanation within a period of 30 days with regard to the FIR registered against him under Section 151 Cr.P.C, in Crime No.38 of 2022 in Salem Town Police Station.

2. The petitioner has applied for passport and due to the pendency of the aforementioned FIR, no final orders have been passed by the first respondent with regard to the petitioner's passport application. On receipt of the impugned communication dated 31.03.2022, the petitioner has also submitted an explanation to the first respondent on 11.04.2022. In the said reply, he has categorically denied that he is involved in the said offence. Since the passport has not been issued despite the explanation, the petitioner has filed this Writ Petition.

3. Ms.A.Anuradha, learned Central Government Standing Counsel, accepts notice on behalf of the first respondent and Mr.R.Murthi, learned Government Advocate, accepts notice on behalf of the second respondent. By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. It is a settled law that there is no prohibition for the first respondent to issue passport despite the pendency of the FIR. It is for the first respondent to consider each and every case on merits and in accordance with law and decide, despite the pendency of an FIR as to whether a passport can be issued to the applicant or not.

5. In the case on hand, the petitioner has been charged with an offence under Section 151 of Cr.P.C. in Crime No.38 of 2022 for his participation in a procession conducted by the Popular Front of India. The petitioner denies his participation in the said procession.

6. No prejudice will be caused to the respondents if the petitioner's passport application is considered on merits and in accordance with law, after affording a fair hearing to the petitioner including, granting him the right of personal hearing.

7. For the foregoing reasons, this Court directs the first respondent to pass final orders on the petitioner's passport application dated 16.03.2022, on merits and in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order, after affording a fair hearing to the petitioner including, granting him the right of personal hearing and also permitting him to produce all the documents/records in

support of his contention that he is not involved in the alleged offence.

8. With the aforesaid directions, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Passport Officer,  
Regional Passport Office,  
First Floor, Corporation Commercial Complex,  
Thandumariamman Koil, Avinashi Road,  
Coimbatore - 641 018.
2. The Inspector of Police,  
Salem Town Police Station,  
Salem.

+1cc to M/s.I.Abdul Basith, Advocate, S.R.No.45359

+1cc to the Government Pleader, S.R.No.45210

W.P.No.17276 of 2022

SSN(CO)  
RLP(28/07/2022)