



W.P.No.17957 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2022

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.17957 of 2022

Sivakumar

.. Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
Municipal Water Tank Building,
W.B. Road,
Tiruchirapalli – 620 008.

2.The Inspector of Police,
V.Kalathur Police Station,
Perambalur District.

.. 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 of 1st respondent pertaining to the impugned order passed in his Letter Ref.No.FCL/312651173/22 dated 20.05.2022 and quash the same and consequently direct 1st respondent to issue a passport to the petitioner based on the Application No.TR5063711258121, within the time limit stipulated by this Court.

For Petitioner : M/s.S.Rithika



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For Respondents : Mr.Muthu Chharan Sundaresh,
Standing Counsel [R1]
Mr.B.Vijay,
Additional Government Pleader [R2]

ORDER

This Writ Petition has been filed challenging the order dated 20.05.2022 passed by the first respondent, intimating the petitioner that his passport application has been closed, as no proper response has been given by the petitioner with regard to the pendency of an FIR against him.

2. Mr.Muthu Chharan Sundaresh, learned standing counsel, accepts notice on behalf of the first respondent and Mr.B.Vijay, learned Additional Government Pleader, 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.

3. The petitioner has been directed to apply for a fresh passport, by paying the requisite fees. The petitioner has applied for a fresh passport and his application has not been processed in view of the fact that an FIR in Crime No.603 of 2020 under Sections 294(b), 323, 354 & 506(ii) of IPC, is



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pending against him. The petitioner has not submitted an explanation with regard to the aforementioned FIR as seen from the impugned order dated 20.05.2022.

4. Necessarily, the petitioner will have to submit an explanation and only thereafter, the first respondent will be in a position to decide as to whether a passport can be issued in favour of the petitioner or not.

5. It is also submitted by the learned Additional Government Pleader appearing for the second respondent that no charge sheet has been filed against the petitioner and the matter is still pending for investigation and it is in the FIR stage. The said statement is recorded.

6. It is a settled law that pendency of an FIR will not prohibit the first respondent from issuing/re-issuing passport to any applicant. It depends on the facts and circumstances of each case. 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/re-issued to any applicant or not and only after the first respondent is



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satisfied that the petitioner is entitled for passport, orders can be passed for issuing the passport in favour of the petitioner. In the impugned order dated 20.05.2022, the petitioner has also been intimated that if he so desires, he can apply for fresh passport.

7. The learned counsel appearing for the petitioner, on instructions, would submit that the petitioner is also willing to submit a fresh application with the first respondent seeking for passport, provided the first respondent processes the petitioner's passport application without insisting for an acquittal order as earlier demanded by them. The said statement is recorded.

8. No prejudice will be caused to the respondents if the petitioner's application seeking for passport 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, without insisting for any acquittal order as demanded by the first respondent earlier. It is for the first respondent to decide as to whether a passport can be issued to the petitioner or not, after giving due consideration to the contention of the petitioner.

9. For the foregoing reasons, this Court directs the petitioner to submit



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a fresh application to the first respondent seeking for issuance of passport in his favour, within a period of one (1) week from the date of receipt of a copy of this order and on receipt of such application, the first respondent shall pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner including, granting him the right of personal hearing, within a period of four (4) weeks thereafter.

10. With the aforesaid directions, this Writ Petition is disposed of. No costs.

14.07.2022
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Index: Yes/No

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To

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Municipal Water Tank Building,
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2.The Inspector of Police,
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ABDUL QUDDHOSE,J.

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