



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.4946 of 2022

Thamaraikannan

... Petitioner

Vs

1.The Regional Passport Officer,
Government of India Ministry of External Affairs,
Regional Passport Office, Madurai,
Bharathi Ula Veethi,
Race Course Road, Madurai.

2.The Passport Officer,
Melakkal Main Road Passport Office,
Kochadai,
Madurai, Madurai District.

3.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(Crime No.17 of 2020)

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents to issue a passport to the petitioner based on the passport application File No.MD1062995192920, within the time stipulated by this Court.

For Petitioner : Mrs.A.Banumathy
For Respondents : Mr.V.B.Sundareshwar for R1 & R2
Central Government Standing Counsel
Mr.T.Amjad Khan for R3
Government Advocate

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the first and second respondents to issue passport to the petitioner, based on his passport application, within a time frame to be fixed by this Court.

2.The petitioner has applied for passport with the first respondent. However, the same has not been considered till date, in view of the fact that an FIR is pending against him in Crime No.17 of 2020 for the offences punishable under Sections 294(b), 504, 506 (1) and 109 IPC. According to the petitioner, pendency of an FIR does not prohibit the respondents from issuing passport. Since the



passport has not been issued till date, the petitioner has filed this writ petition.

3. Heard Mrs.A.Banumathy, learned counsel appearing for the petitioner, Mr.V.B.Sundareshwar, learned Central Government Standing Counsel appearing for the respondents 1 and 2 and Mr.T.Amjad Khan, learned Government Advocate appearing for the 3rd respondent.

4. On instructions, the learned Central Government Standing Counsel would submit that a show cause notice was issued by the first respondent to the petitioner, calling upon the petitioner to submit his explanation with regard to the pendency of the FIR in Crime No.17 of 2020, registered against him, for the offence punishable under Sections 294(b), 504, 506(i) and 109 IPC. Since the explanation was not received, the first respondent has not perused the petitioner's application.

5. The learned counsel appearing for the petitioner on instructions now would submit that the petitioner is willing to submit the reply/explanation to the show cause notice issued by the first respondent, dated 03.09.2020 and 25.11.2021. The said statement is recorded. It is also submitted by the learned Government Advocate, appearing for the third respondent that no charge sheet has been filed till date.

6. No prejudice will be caused to the first respondent, if the petitioner's application for passport is considered on merits and in accordance with law, after affording a fair hearing to the petitioner and also giving due consideration to the reply to be sent by the petitioner to the show cause notice sent by the first respondent.

7. It is settled law that pendency of an FIR will not prohibit the respondent to consider the petitioner's application seeking for issuance of his passport. It is for the respondent to take a call as to whether the petitioner is entitled for issuance of his passport or not, after affording a fair hearing to the petitioner and also after giving due consideration to the reply sent by the petitioner to the show cause notice. Merely because an FIR is pending, any applicant cannot be deprived of his passport. It depends on the facts and circumstances of each case.

8. For the foregoing reasons, this Court directs the petitioner to submit his reply/explanation to the show cause notice, dated 03.09.2020 and 25.11.2020, issued by the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said reply and after affording a fair hearing to the petitioner including granting him the right of personal hearing, the first respondent shall process the petitioner's passport application and pass final orders, within a period of two weeks, thereafter.



9. With the aforesaid directions, this writ petition is disposed of. No costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2022

Sub Assistant Registrar (CS)

TM

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 Regional Passport Officer,
Government of India Ministry of External Affairs,
Regional Passport Office, Madurai,
Bharathi Ula Veethi,
Race Course Road, Madurai.
2. The Passport Officer,
Melakkal Main Road Passport Office,
Kochadai,
Madurai, Madurai District.
3. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-14485[F] dated 25/03/2022)

W.P. (MD)No.4946 of 2022

24.03.2022

KG (CO)

GC (31.03.2022) 3P 5C