



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.13540 of 2021

WEB COPY

S.P.Thaneshkumar

... Petitioner

Vs.

1.The Regional Passport Officer,
Madurai Region,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to return the Passport No.N8138875 to the petitioner by considering his representation dated 12.07.2021 within the stipulated period as prescribed by this Court.

For Petitioner : Mr.P.Rengaraju
For Respondent No.1 : Mrs.L.Victoria Gowri,
Assistant Solicitor General
For Respondent No.2 : Mr.M.Lingadurai,
Special Government Pleader

O R D E R

This writ petition has been filed for a Mandamus seeking for a direction to the first respondent to return the Passport No.N8138875 to the petitioner based on the petitioner's representation dated 12.07.2021, within a time frame to be fixed by this Court.

2.The petitioner had surrendered the passport to the first respondent at their request as he was involved in a criminal offence registered in Crime No.337 of 2014. According to the first respondent, charge sheet has also been filed and the case is now pending before the Judicial Magistrate, Eraniel in S.T.C.No.359 of 2014.

3.According to learned Assistant Solicitor General appearing for the first respondent, the petitioner has been charged for the offences under Section 379 IPC and Section 21(1) of the Mines and Minerals Act, 1957. Only for the said reason, the petitioner's passport was directed to be surrendered.



4.However, it is the contention of the petitioner that he is innocent. It is also his case that there is no prohibition for the first respondent to issue passport in respect of pending FIR. He also denies the contention of the first respondent that charge sheet has been filed in Crime No.337 of 2014 registered against him. According to him, charge sheet has not been filed till date and S.T.C.No.359 of 2014 does not pertain to him.

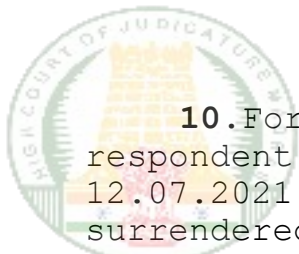
5.Heard Mr.P.Rengaraju, learned Counsel for the writ petitioner, Mrs.L.Victoria Gowri, learned Assistant Solicitor General who accepts notice on behalf of the first respondent and Mr.M.Lingadurai, learned Special Government Pleader who accepts notice on behalf of the second respondent.

6.It is settled law that pendency of an FIR will not prohibit the first respondent from issuing passport. It is for the first respondent to decide depending upon the facts and circumstances of each case on merits and in accordance with law as to whether passport can be issued or not. In the case on hand, the passport has been surrendered by the petitioner to the first respondent in view of the alleged criminal offence registered against him referred to supra. It is for the first respondent to consider the petitioner's representation dated 12.07.2021 seeking for return of his passport on merits and in accordance with law after affording a fair hearing to the petitioner.

7.No prejudice would be caused to the first respondent if the petitioner's representation is considered on merits and in accordance with law after affording a fair hearing to the petitioner. It has been categorically contended in the affidavit filed in support of the writ petition that he is an innocent person and a false complaint has been lodged against him. All these factors will have to be considered by the first respondent while passing final orders on the petitioner's representation dated 12.07.2021 seeking for return of the petitioner's passport which was surrendered by him on the request made by the first respondent.

8.It is also contended by the learned Assistant Solicitor General appearing for the first respondent that the petitioner has undertaken before the first respondent by giving an undertaking letter dated 13.07.2021 that the first respondent shall return the passport only after the petitioner is found to be innocent and order of acquittal is passed by the concerned Court.

9.As observed earlier, all these factors can be considered by the first respondent in the final orders to be passed by them on the petitioner's representation after affording a fair hearing to the petitioner as indicated supra.



10.For the foregoing reasons, this Court directs the first respondent to consider the petitioner's representation dated 12.07.2021 seeking for return of his passport No.N8138875 which was surrendered to the first respondent and 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 twelve [12] weeks from the date of receipt of a copy of this order.

11.With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

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,
Madurai Region,
Bharathi Ula Veethi,
Race Course Road,
Madurai - 625 002.

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

+1 CC to M/s.SPL GP (SR-11570[F] dated 11/03/2022)

ORDER MADE IN

W.P. [MD]No.13540 of 2021

10.03.2022

KG (CO)

GC (21.03.2022) 3P 4C