



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.21169 of 2021

Abdul Majeed

... Petitioner

Vs.

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

2.The Inspector of Police,
Kilvelur Police Station,
Nagapattinam.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the first respondent to issue Passport to the petitioner by considering the passport application in file number TR4073521917921 dated 18.08.2021 and representation dated 02.09.2021 of the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.I.Abdul Basith

For R-1 : Mr.Sasi Kumar
Standing Counsel

For R-2 : Mr.D.Ghandiraj
Special Government Pleader

ORDER

This Writ Petition has been filed in the nature of Mandamus seeking a direction to the first respondent/the Regional Passport Officer, Tiruchirapalli to issue passport to the petitioner by considering the application in File No. TR4073521917921 dated 18.08.2021. The petitioner had given a further representation on 02.09.2021.

2. Heard Mr.I.Abdul Basith, learned counsel for the petitioner, Mr.Sasi Kumar, learned Counsel for the first respondent and Mr.D.Ghandiraj, learned Special Government Pleader for the second respondent.



3. Mr.Ghandiraj pointed out that the petitioner had unfortunately come to the adverse notice of the second respondent who had necessity to register a First Information Report in Crime No.618/2019 under Sections 143, 341 IPC. It is informed that subsequently, final report has also been filed before the Judicial Magistrate, Nagapattinam. It is one of the cardinal principles of criminal law that no person can be deemed to be guilty unless he undergoes the process of trial and the Court convicts him. Till then he is presumed to be innocent.

4. The only ground on which the first respondent has held over the application of passport of the petitioner is the pendency of the said First Information Report. It is also well known that FIR is not a substantial piece of evidence and moreover, filing of a FIR cannot be a bar to either apply for passport or to issue a passport.

5. A direction is therefore given to the first respondent to consider the application of the passport of the petitioner and if it is otherwise in order, process it. However, as stated by Mr.D.Ghandiraj, learned Special Government Pleader, the petitioner must appear before the Judicial Magistrate Court where the final report had been filed and give an undertaking that he will not leave the shores of the country without prior permission from the Judicial Magistrate Court and he would appear and go through the process of trial. The first respondent may also get an undertaking letter from the petitioner herein that he would appear before the Trial Court and subject himself to the Judicial process.

6. With these observations, a Mandamus as aforesaid is issued to the first respondent to issue passport within a period of three (3) weeks from the date of receipt of a copy of this order provided the petitioner satisfies the aforesaid conditions.

7. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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



To

1.The Regional Passport Officer,
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Tiruchirapalli - 620 008.

2.The Inspector of Police,
Kilvelur Police Station, Nagapattinam.

+1 CC to M/s.Y.SASIKUMAR, Advocate (SR-258[F] dated 05/01/2022)

+1 CC to M/s.SPL.GP (SR-341[F] dated 05/01/2022)

W.P (MD) No.21169 of 2021
04.01.2022

MGJ(20.01.2022) 3P 5C