



WEB COPY



W.P.No.27322 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.27322 of 2023

M.Shanmuganathan

... Petitioner

Vs.

1.The Government of India
Ministry of External Affairs
68, College Road, E.V.K. Sampath Maaligai
7th Floor, Nungambakkam
Chennai 600 006

2.The Regional Passport Officer
First Floor, Corporation Commercial Complex
Opp. Thandumariamman Koil
Avinashi Road
Coimbatore 641018

3.The Inspector of Police
All Women Police Station
Ammamet, Salem

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the 2nd respondent to process the petitioner's application bearing No.23-1006716667 vide file No. CB1075446736923 dated 07.06.2023 in a time bound manner.



WEB COPY



W.P.No.27322 of 2022

For Petitioner : Labrar Md. Abdullah

For Respondents : Mr.V.Ramanamoorthy
Central Govt. Standing Counsel - R1 & R2

Mr.N.Muthuvel
Government Advocate (Crl. Side) for R3

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner's passport was revoked as he is alleged to have suppressed a case registered in Crime No.14 of 2019 by the All Women Police Station, Ammapet, Salem.

3.The passport authority had now issued a notice dated 31.07.2023, requiring the petitioner to submit a copy of the judgment acquitting him by the concerned trial Court.

4.Mr.V.Ramanamoorthy, the learned Central Government Standing Counsel takes notice for the respondents 1 and 2. Mr.N.Muthuvel, the learned Government Advocate (Crl. Side) takes notice for the 3rd respondent.



W.P.No.27322 of 2022

5.This Court has been reeling out judgment on the topic almost on a daily basis, but passport authority appears to be in their own zone and refuse to update their legal knowledge vis-a-vis issuance of passport or renewal of passport owing to pendency of some criminal case.

6.Section 6(2) of the Passport Act *inter alia* provides under sub-section (f) that the Passport Authority can refuse to issue a passport, where “proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India”. This provision however, stands diluted in ***Maneka Gandhi Vs Union of India*** [(1978) 1 SCC 248], where the Hon'ble Supreme Court has recognised the right of an accused to travel abroad. Therefore, to start with, there cannot be any refusal to issue passport to an applicant merely because he or she is facing an accusation of committing an offence. See: ***Vangala Kasturi Rangacharyulu Vs Central Bureau of Investigation*** [Order of the Apex Court dated 27.09.2021 in CrI.A.No.1342/2107], ***The Regional Passport Officer Vs Samsudeen Mohamed Salih*** [W.A.No.902 of 2023 dated 02.06.2023], ***Venkatesh Kandasamy Vs Government of India, Ministry of***



W.P.No.27322 of 2022

WEB COPY ***External Affairs*** [AIR 2015 Mad 3], ***Shaik Abdulla Vs. The Union of India and Ors.*** (in W.P.No.12515 of 2022 dated 12.05.2022).

7. There is however, a possibility that on obtaining the passport, an accused may flee the country. And it has happened. Here, the Courts often draw a distinction between obtaining a passport and travelling abroad, and has required the accused to obtain the leave of the Court before which the criminal case involving him or her is pending. This makes sense, for only for the law abiding. What if someone flees the judicial process and makes him or her never available for trial? In other words, what if the passport holder leaves the shores of this country without intimating the Court?

8. The Passport Act and the Criminal law jurisprudence operate in different spheres. The Criminal Court or an investigating agency may not require the presence of an accused or a convict under suspension of sentence, all the time. Their requirements are guided by different factors. A Passport Authority need not anticipate their requirements nor should be over anxious more than a Criminal Court or an Investigating Agency, while issuing or



W.P.No.27322 of 2022

renewing a passport. It is plainly not its job. Still issuance of passport to an accused can help him to flee law and become a fugitive, and hence there is a need to balance the right of an accused to obtain a passport, the requirement of criminal jurisprudence that he participates in the proceedings. This can be achieved, if upon issuance or renewal of the passport of an accused person, the Passport Authority intimates about it, both to the investigating agency and also the criminal court concerned. The concerned accused, or convict under suspension of sentence, will then be in the radar of the Criminal Court or the investigating agency. It is now for the Court or the investigating agency to act, in which the Passport Authority may not have an immediate role.

9. This Court therefore, directs the second respondent:

- a) To re-issue the passport of the petitioner, if his application for -issuance of his passport otherwise complies with the requirements of law, within a period of eight (8) weeks from the date of receipt of a copy of this order.
- b) In the eventuality of issuing the passport of the petitioner, then to



W.P.No.27322 of 2022

WEB COPY

intimate the same to the Criminal Court and also the Investigating Agencies in the two cases in which the petitioner is stated to be facing trial.

10. Before leaving the country, the petitioner is directed to obtain necessary permission from the criminal court which handles the criminal case.

11. In the result, the writ petition is disposed of with the above directions.

No costs.

19.09.2023

Index : Yes / No
Neutral citation

kas

To:

1.The Government of India
Ministry of External Affairs
68, College Road, E.V.K. Sampath Maaligai
7th Floor, Nungambakkam
Chennai 600 006



W.P.No.27322 of 2022

2.The Regional Passport Officer
First Floor, Corporation Commercial Complex
Opp. Thandumariamman Koil
Avinashi Road
Coimbatore 641018

3.The Inspector of Police
All Women Police Station
Ammamet, Salem



WEB COPY



W.P.No.27322 of 2022

N.SESHASAYEE.J.,

kas

W.P.No.27322 of 2023

19.09.2023