



WP(MD)No.13180 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 21.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.13180 of 2023
and
WMP(MD)No.11152 of 2023

A.Joan Sibu Alex

.. Petitioner

v.

1.The Second Secretary (Consular),
High Commission of India,
Malta
No.29, Triq Galanton Vassallo,
Santa Venera,
SVR 1901, Malta.

2.Regional Passport Office,
For Regional Passport Officer,
Bharathi Ula Veethi,
Race Course Road,
Madurai – 625 002.

3.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.
Cr.No.173 of 2017

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned show cause notice in No.VAL/CONS/415012022 on the file of the first respondent dated 15.03.2023, quash the same and consequently, directing the second respondent to reissue the passport to the petitioner by considering his application in no.ARN 22-2004118964 in file No.MT9074857380323 within a stipulated time limit.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.J.Alaguram Jothi,
Central Government Standing Counsel
for R.2

Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
for R.3

ORDER

The petitioner is working at Malta. He lost his passport and in this regard, he lodged a complaint before the first respondent. At that time, he came to know that a criminal case is pending against him before the Judicial Magistrate Court, Eraniel. For the purpose of contesting the case before the concerned Magistrate



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Court, the petitioner applied for a temporary passport to return to India. It was not considered by the Passport Authority, on the ground that a criminal proceeding is pending as against this petitioner.

2.Learned Central Government Standing Counsel for the Passport Authority submitted that they have received adverse remarks during police verification. Therefore, they have issued a show cause notice to the petitioner and they are yet to take a decision on the petitioner's application.

3.Learned Government Advocate (Crl. Side) for the Police submitted that the petitioner has involved in a case in Crime No.173 of 2017 for the offence u/s.294(b), 332, 506(ii) IPC, Section 185 of Motor Vehicle Act and Section 4(1) (j) of TN Prohibition Act on the file of the Colachel Police Station, Kanyakumari. He further submitted that after investigation, charge sheet has been filed before the learned Judicial Magistrate, Eraniel and the same has also been taken on file and pending in CC.No.240 of 2019.

4.This Court considered the rival submissions made on either side.



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5.The Ministry of External Affairs, Government of India, has issued a statutory notification in GSR.570(E) dated 25.08.1993 with certain guidelines by providing relief to those applicants against whom criminal proceedings are pending before the Courts that they can obtain the passport by obtaining No Objection Certificate from the concerned Court and also by filing an undertaking as prescribed in the notification.

6.Here the petitioner is in Malta. He claims that he was not aware of the criminal case pending against him and on knowing about the same, he was also inclined to return to India and contest the case. For that purpose, the petitioner seeks a temporary passport.

7.Considering the facts and circumstances of the case, this Court is issuing the following directions:-

i) The petitioner shall file an affidavit of undertaking before the Passport Authority attached with the Embassy at Malta, as required under GSR. 570(E) dated 25.08.1993.

ii) The petitioner shall also give an undertaking that he is returning to India only for the purpose of contesting the trial in C.C.No.240 of 2019.



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iii) On such presentation, the Passport Authority shall consider the case of the petitioner and issue temporary passport (one-time passport) to the petitioner enabling him to travel to India.

iv) Pending the criminal proceedings, if the petitioner is inclined to go Abroad, he shall get his passport renewed by filing an affidavit under GSR. 570(E) along with a No Objection Certificate obtained from the concerned Court where the case is pending, before the Passport Authority. On such presentation of the application, the Passport Authority shall consider the same and renew the passport for a temporary period depending upon the requirement.

With the above directions, this writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

21.07.2023

To

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



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B.PUGALENDHI, J.

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

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