



W.P.(MD).No.16234 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **10.07.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD).No.16234 of 2023

M.Anitha

... Petitioner

Vs.

1.The Regional Passport Officer,
Madurai Region,
Race Course Road,
Madurai.

2.The Inspector of Police,
Avaniyapuram Police Station,
Madurai City.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to issue the Passport to the petitioner, based on the petitioner's application No.MD1065238056523 dated 05.04.2023, on the basis of the petitioner's representations dated 26.05.2023 and 24.06.2023.



WEB COPY



W.P.(MD).No.16234 of 2023

For Petitioner : Mr.P.Arumugam
For Respondents : Mr.S.Sivakumar
Central Government Standing Counsel
for R1
Mr.P.T.Thiraviyam
Government Advocate for R2

ORDER

The petitioner's application for grant of passport was not considered by the Passport Authority, on the ground that a criminal proceeding is pending as against this petitioner before the Criminal Court.

2.Mr.S.Sivakumar, learned Central Government Standing Counsel, who takes notice for the first respondent submits that in view of pendency of a criminal case pending as against the petitioner, the first respondent has not considered the petitioner's application.

3. Mr.P.T.Thiraviyam, learned Government Advocate, who takes notice for the second respondent submits that the petitioner is involved in a criminal case in Crime No.765 of 2022 on the file of the second respondent Police, for the offences punishable under Sections 447,



W.P.(MD).No.16234 of 2023

WEB COPY

294(b) & 506(i) IPC and a final report has been filed before the learned Judicial Magistrate No.VI, Madurai and the same was taken on file in C.C.No.2474 of 2022.

4.The Passport Authority can refuse the passport and any travel documents under Section 6 of the Passport Act, 1967. Section 6(2)(F) of the Act would be relevant and the same is extracted as under:-

“6.Refusal of passports, travel documents, etc-

...

(2)Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely -

...

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India.”



W.P.(MD).No.16234 of 2023

WEB COPY

5.The above provision enables the Passport Authority to refuse the passport or travel document to an applicant on the ground that proceedings in respect of an offence alleged to have been committed by the applicant is pending before a Criminal Court.

6.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.

7.Ordinarily, the duration of a passport as per Rule 12 of the Passport Rules is for a period of 10 years. In the event if the applicant is facing any criminal proceedings, the passport may be issued by restricting the period. Therefore, the Passport Authority is not justified in not deciding the application filed by the petitioner for passport by referring the pendency of any criminal case before the Court.



W.P.(MD).No.16234 of 2023

WEB COPY

8. Accordingly, this writ petition is disposed of with the following directions:-

i) The petitioner shall file an affidavit of undertaking along with substantive sureties to ensure her availability for the trial, before the concerned Court where the case is pending. The Court, on satisfaction and after ensuring her availability for the trial, shall issue a No Objection Certificate to the petitioner enabling her to obtain the passport.

ii) The petitioner, thereafter, shall file an affidavit under GSR. 570(E) along with a No Objection Certificate obtained from the concerned Court before the Passport Authority. On such presentation of the application, the Passport Authority shall consider the same and issue passport for a temporary period depending upon the requirement.

10.07.2023

Index: Yes/No
Internet: Yes/No
ssb



W.P.(MD).No.16234 of 2023

To

1. The Regional Passport Officer,
Madurai Region,
Race Course Road,
Madurai.
2. The Inspector of Police,
Avaniyapuram Police Station,
Madurai City.



WEB COPY



W.P.(MD).No.16234 of 2023

B.PUGALENDHI, J.

ssb

W.P.(MD).No.16234 of 2023

10.07.2023