



WP (MD) No.22339 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 27.09.2023**

**CORAM:**

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

**WP(MD)No.22339 of 2023**

Rajendran

... Petitioner

Vs

1.The Regional Passport Officer,  
Regional Passport Office,  
Tiruchirappalli,  
New Municipal Complex,  
Thillai Nagar, 7<sup>th</sup> Cross,  
Tiruchirappalli – 620 018.

2.The Inspector of Police,  
Tamil University Police Station,  
Thanjavur District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus to direct the 1<sup>st</sup> respondent to issue police clearance certificate to the petitioner in his application in File No.TR1071443958318 by considering the explanation dated 16.08.2023.

For petitioner : Mr.R.Maheswaran

For Respondent : Ms.C.Deepa

No.1

Central Govt.Standing Counsel



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**ORDER**

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This writ petition is filed for a writ of mandamus to direct the respondents to issue police clearance certificate to the petitioner by considering the explanation dated 16.08.2023.

2.The learned Counsel for the petitioner submits that the petitioner has got job opportunity as a Cleaner in Kuwait and therefore, he has applied for Visa. However, the 1<sup>st</sup> respondent by referring the criminal case pending against him in CC.No.417 of 2021 on the file of the Judicial Magistrate No.II, Thanajvur directed the petitioner to get a police clearance certificate. In this regard he has submitted a representation to the respondents. However, it has not been considered

3.The learned Counsel for the petitioner has also relied on the orders of this Court in B.Ramu Vs The Regional Passport Officer, Trichy [WP(MD)No.15999 of 2015 decided on 03.09.2015]

*“4.In support of his contention, the learned counsel appearing for the petitioner would rely upon a decision of the Gujarat High Court in Vaishaliben vs. State wherein at paragraphs 8 and 9 it has been observed as follows:*



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*8. In exercise of powers under Article 226 and 227 of the Constitution of India, a writ court is duty bound to protect fundamental rights of the citizen and denial of issuance of police clearance certificate in absence of anything against the petitioner will be a negation of fundamental rights available to the petitioner in part-III of the Constitution of India. When the petitioner who is already enlarged on bail by the competent court of law and after the order of bail, no such case is noticed by the authority or the court of any breach of conditions of bail and willingness is shown by the petitioner to furnish an undertaking in the terms and conditions that may be imposed by this Court I hereby direct the District Superintendent of Police, Anand, to issue police clearance certificate to the petitioner subject to verification about antecedents of the petitioner other than the case pending in the Court pursuant to the C.R.No.1-64 of 2009.*

*9. The petitioner is directed to file an undertaking before the concerned court and the police authority about disclosing of her itinerary and whereabouts and further that as and when her presence is necessary for attending the trial she may be return to this country.*

*5. Following the above dictum and considering the facts and circumstances of the case on hand, I am of the opinion that it would appropriate to direct the respondents 2 and 3 to consider the*



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*petitioner's representation dated 14.08.2015. Accordingly, this Court directs the respondents 2 and 3 to consider the petitioner's representation dated 14.08.2015 and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.”*

4.The learned Counsel for the petitioner points out that there is no provision requiring the passport authority to insist for police clearance certificate in the Act or Rules.

5.The learned Government Advocate (Criminal Side) appearing for the 2<sup>nd</sup> respondent submits that the petitioner has involved in a criminal case in Crime No.159 of 2018 for the offence under Sections 147, 153A, 504, 505(1)(a), 353 and 506(i) IPC on the file of the 2<sup>nd</sup> respondent and final report has been filed before the Judicial Magistrate No.II, Thanjavur in CC.No.417 of 2021.

6.The learned Counsel appearing for the 1<sup>st</sup> respondent submits that in view of the criminal case pending against this petitioner in the Court, the petitioner was directed to get a police clearance certificate.



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7.This Court considered the rival submissions and perused the materials placed on record.

8.The petitioner is facing a criminal trial before the Judicial Magistrate No.II, Thanjavur in CC.No.417 of 2021 and the petitioner shall satisfy the Court that he will be available for the trial. 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 his availability for the trial, before the concerned Court where the case is pending. The Court, on satisfaction and after ensuring his availability for the trial, shall issue a No Objection Certificate to the petitioner enabling him to get visa.

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 grant of visa to the petitioner. No costs.

.09.2023

Note: Issue order copy on 29.09.2023  
dsk



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To

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1.The Regional Passport Officer,  
Regional Passport Office,  
Tiruchirappalli,  
New Municipal Complex,  
Thillai Nagar, 7<sup>th</sup> Cross,  
Tiruchirappalli – 620 018.

2.The Inspector of Police,  
Tamil University Police Station,  
Thanjavur District.

Copy to

The Judicial Magistrate No.II,  
Thanjavur.



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**B.PUGALENDHI, J.**

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