



WP.(MD)No.25272 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

WP (MD)No.25272 of 2023

Mr.S.P.Udayakumar

: Petitioner

Vs.

1.The Director General of Police,
O/o.Director General of Police,
Dr.Radhakrishnan Salai Road,
Mylapore,
Chennai.

2.The Superintendent of Police,
O/o.Superintendent of Police,
Tirunelveli District,
Tirunelveli.

: Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, in the nature of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No. 253/X/SB/TIN/2022, dated 16/09/2023 on the file of the 2nd respondent and quash the same as illegal and consequently seeking for a direction to direct the respondent No.1 to withdraw the Lookout Circular against the petitioner within the time prescribed by this court. And pass such further or other orders.

For Petitioner

: Mr.T.Lajapathi Roy
for M/s.Lajapathi Roy and
Associates

For Respondents

: Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal side)



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O R D E R

WEB COPY This writ petition is filed seeking quashment of the impugned order in Na.Ka.No.253/X/SB/TIN/2022, dated 16/09/2023 passed by the 2nd respondent and consequently to direct the 1st respondent to withdraw the Lookout Circular against the petitioner within the time prescribed by this court.

2.The facts in brief:-

The petitioner has worked as a Professor at Monmouth University, New Jersey, United States. He is presently the Convenor of People's Movement against Nuclear Energy (PMANE) and he is actively protesting against the Kudankulam Nuclear Power Plant Project well within the framework of the Indian Constitution. Government of Tamilnadu has registered several criminal cases against the petitioner and other members of People's movement against Nuclear Energy (PMANE) for actively agitated against the State by way of demonstration, fast, hoisting of black flag, picketing etc. Later, his passport has been impounded by the Passport Authority officials after the adverse report of the concerned police officials listing out the cases pending against him and his subordinates. On such several cases, one of the agitators had approached the Hon'ble Supreme Court and the



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direction was issued by Apex Court in ***G.Sundarajan VS UOI in [(2013) 6 SCC 620]***. In view of the said direction, the Government of Tamilnadu has issued a Government order in G.O.Ms.No.758, Home(Courts-IV) Department, dated 9.10.2014, in which, 248 cases registered against the members of People's Movement against Nuclear Energy(PMANE) were withdrawn. After the writ petition ordered, dated 26/04/2022, the petitioner had applied for the re-issuance of passport before the respondents, on 30/04/2022 through online. And on 02/05/2022, the petitioner had approached the Passport office, Tirunelveli, by complying the conditions mentioned in W.P.(MD)No.23415 of 2018 on 5.5.2022. Thereafter, when the petitioner again approached the respondents, they asked him to produce the original order of WP(MD)No.23415 of 2018. Since it was during vacation period, the petitioner was unable to get the certified copy at the right time from the High Court. But without considering it, the respondents had rejected the application of the petitioner. On 01/08/2022, this court directed the Passport Authority to issue a passport to the petitioner in W.P(MD)Nos.14010 and 15143 of 2022. Based on the direction of this court, the Passport Authority has issued a passport in favour of the petitioner. In the meantime, he is planning to travel



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Singapore. At that time, he came to know about the lookout circular notice was issued against him. Since, pending lookout circular against him, he is unable to travel outside the State. Hence, this writ petition seeking the relief as stated above.

3.Heard both sides.

4.As detailed in the petition and counter affidavit filed by the 2nd respondent herein, the petitioner is facing the following criminal proceedings:-

S.No	Station Name	Crime No.	CC/PRC/SC	Stage of the case
01.	Koodankulam	297/11		UI
02.	-do-	299/11		UI
03.	-do-	315/11		UI
04.	-do-	76/12		UI
05.	-do-	302/11	CC No.368/20 JM Court, Radhapuram.	Pending Trial
06.	-do-	303/11	CC No.658/23 JM Court, Radhapuram.	Pending Trial
07.	-do=	70/12	CC No.658/2020 JM Court, Radhapuram.	Pending Trial
08.	-do-	158/12	CC No.336/2020 JM Court, Radhapuram.	Pending Trial
09.	-do-	164/12	PRC 46/2020 JM Court, Radhapuram	Pending Trial



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10.	-do-	165/12	PRC 52/2020 JM Court, Radhapuram.	Pending Trial
11.	-do-	175/12	PRC 42/20 JM Court, Radhapuram.	Pending Trial
12.	-do-	216/12	PRC 57/20 JM Court, Radhapuram.	Pending Trial
13.	-do-	332/12	CC 170/20 JM Court, Radhapuram.	Pending Trial
14.	-do-	340/12	PRC 58/20 JM Court, Radhapuram.	Pending Trial
15.	-do-	349/12	PRC 83/20 JM Court, Radhapuram.	Pending Trial
16.	-do-	352/12	PRC 62/20 JM Court, Radhapuram	Pending Trial
17.	-do-	39/13	PRC 334/20 JM Court, Radhapuram.	Pending Trial
18.	-do-	126/13	PRC 28/20 JM Court, Radhapuram.	Pending Trial
19.	-do-	191/13	PRC 44/20 JM Court, Radhapuram.	Pending Trial
20.	-do-	192/13	PRC 51/20 JM Court, Radhapuram	Pending Trial
21.	-do-	193/13	PRC 45/20 JM Court, Radhapuram.	Pending Trial
22.	-do-	219/13	PRC 47/20 JM Court, Radhapuram.	Pending Trial
23.	-do-	252/13	CC 337/20 JM Court, Radhapuram.	Pending Trial.



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5.All the cases have been registered on the eve of protest against the establishment of Nuclear Power Plant in Koodankulam. The said occurrences said to have been taken place in 2011, 2012 and 2013. The Hon'ble Supreme Court had seized of the matter and issued series of guidelines in this regard, fixing or remanding, to drop proceedings against the persons, who participated in the protest, etc., and educate the people over the necessity of establishing the nuclear power plant.

6.In spite of the fact, that issue arose in 2011, 2012 and 2013, nothing has not done so far. Various criminal prosecutions are now fearing the petitioner and others. Many of the cases registered during the above said period ended in quash at the hands of this court by various times.

7.Now travelling abroad is a right recognized right from the **Menaka Gandhi's** case. But here the problem is entirely different. The 2nd respondent has issued lookout circular against the petitioner fearing that he may not face the trial process, if permitted to travel abroad. As per the proceedings established so far, the accused, who are facing the criminal proceedings must obtain proper permission from the concerned court to visit abroad. But



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here, the grievance of the petitioner is that he is facing several criminal proceedings before several courts, it may not be possible for him to get 'No Objection Certificate' in each and every case. So according to him, the lookout circular issued by the 2nd respondent is *per se* illegal, which rejects his fundamental right of freedom of moving.

8.The Coordinate Bench of this court also ordered extension of passport to the petitioner for three years from one year, by order, dated 06/12/2022 in WP(MD)No.28851 of 2023 (S.P.Udhaya Kumar Vs. Government of India, Ministry of External Affairs, Passport Issuing Authority, Passport Office, Bharathi Ula Veethi, Race Course Road, Madurai-625 002).

9.When that is being the position, I am of considered view that the lookout circular issued by the 2nd respondent herein against the petitioner is *per se* illegal. The petitioner is a frequent visitor to abroad either on personal ground or participating in seminars, etc. So the contention on the part of the respondents that unless the look-out circular is issued to appear before the respondents police, he could not be secured is not at all acceptable for the simple reason that his



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presence can be secured by imposing certain conditions.

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10.Only reasonable restrictions can be imposed upon the petitioner to visit abroad and no total curtailment of his movement is permissible under law.

11.On the sole ground, the impugned look-out circular issued by the 2nd respondent is ordered to be recalled immediately. It is made clear that he must appear before the respective courts, where the criminal proceedings are pending and file an undertaking affidavit that he will appear before the court as and when required and must also see that he has been properly represented through advocate. On no account, the trial shall be dragged on due to the non appearance of the petitioner.

12.Let the affidavit be filed by the petitioner before the concerned courts within a period of 15 days from the date of receipt of a copy of this order. On such affidavits being filed, the look-out circular shall stand recalled on the following conditions:-

(a)The petitioner must be permitted to visit abroad and he shall also keep in touch with the respective respondents police during stay in abroad and his



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whereabouts and address must also be furnished to the respective criminal courts as well as the police station concerned and he must also intimate the date of departure and the date of return to India, etc., facts; and he must share his mobile phone with the respective respondent police.

13.With the above said conditions, this writ petition stands **allowed**. No costs.

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Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate No.1,
Radhapuram,
Tirunelveli.
- 2.The Director General of Police,
O/o.Director General of Police,
Dr.Radhakrishnan Salai Road,
Mylapore,
Chennai.
- 3.The Superintendent of Police,
O/o.Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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