

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

WEDNESDAY, THE EIGHTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 29393 OF 2023

Between:

Madhulika Karlam, D/o Nagaraju Karlam, Aged about 23 years, Occ. Student,
R/o H.No.1-19, Beside Deccan Grameena Bank, Pentakalan, Bodhan,
Nizamabad District.

...PETITIONER

AND

1. The Union of India, Ministry of External Affairs, New Delhi - 110001 Rep. by its Secretary,
2. The Regional Passport Officer, Regional Passport Office, D.No.8-2-215 to 219, Kummarguda, Secunderabad, Telangana State.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in not granting the passport to the petitioner pursuant to the passport application submitted by the petitioner vide File No.HY4063932535122 dt. 04/02.2022 on the ground that the petitioner is involved in a criminal case vide Crime No.175 of 2021 on the file of Bodhan Rural Police Station (CC No. 60 of 2022 pending on the file of Addl. J.F.C.M. Bodhan) as illegal, arbitrary, violation of principles of natural justice and against Rules and consequently direct the 2nd respondent to issue passport to the petitioner by considering the passport application submitted by the petitioner vide File No.HY4063932535122 dt.04/02/2022 without reference to the pendency of the criminal case in the interest of justice.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the 2nd respondent to issue passport by considering the passport application submitted by the petitioner vide File No.HY4063932535122 dt.04/02/2022 without reference to the pendency of the criminal case in the interest of justice, pending disposal of the above writ petition.

Counsel for the Petitioner: SRI D.BHASKAR REDDY

**Counsel for the Respondents: SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR
GEN. OF INDIA**

The Court made the following: ORDER

THE HON'BLE JUSTICE SUREPALLI NANDA

WRIT PETITION No.29393 OF 2023

ORDER:

Heard Sri D.Bhasker Reddy, learned counsel for the petitioner and Sri Gadi Praveen Kumar, Deputy Solicitor General of India for respondent Nos.1 and 2.

2. The petitioner approached the Court seeking the prayer as follows:

"...Writ of Mandamus by declaring the action of the 2nd respondent in not granting the passport to the petitioner pursuant to the passport application submitted by the petitioner vide File No.HY4063932535122 dated 04.02.2022, on the ground that the petitioner is involved in a criminal case vide Crime No.175 of 2021 on the file of Bodhan Rural Police Station (CC No.60 of 2022 pending on the file of Additional Judicial Magistrate of First Class, Bodhan) as illegal, arbitrary, violation of principles of natural justice and against Rule sand consequently direct the 2nd respondent to issue passport to the petitioner without reference to the pendency of the criminal case..."

3. Perusal of the record would reveal that the petitioner herein is an accused in Crime No.175 of 2021 of Bodhan Rural Police Station registered for the offence punishable under Sections 324,448,427,290,506,182 r/w 34 Indian Penal Code and after completion of investigation, the Investigating Officer had filed charge sheet. The same was taken on file vide C.C.No.60 of 2022 and it is pending on the file of Additional Judicial Magistrate of First Class, Bodhan.

4. The petitioner herein has submitted an application for issuance of passport vide application No.HY4063932535122 dated 04.02.2022 by paying requisite fee. The respondents herein are not issuing passport on the ground of pendency of the aforesaid criminal case.

5. Vide letter dated 09.06.2022, respondent No.2 sought clarification from the petitioner with regard to criminal case pending against him. Petitioner herein did not submit any clarification.

6. Learned counsel appearing for the petitioner would submit that due to lack of knowledge petitioner herein has not mentioned about the pendency of the aforesaid criminal

proceedings against her in the application dated 04.02.2022. It is neither willful nor wanton. She would further submit that the petitioner herein is arraigned as accused No.3 in the aforesaid crime and she was falsely implicated in the aforesaid crime. Further, she is also ready to co-operate with the trial. Therefore, she sought to issue necessary directions to the respondents for consideration of her application to issue passport.

7. Respondent No.2 cannot deny renewal of Passport on the ground that aforesaid Criminal Case is pending against her. It is also relevant to note that the Apex Court in **Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation**¹ had an occasion to examine the provisions of the Passports Act, pendency of criminal cases and held that the refusal of a passport can be only in case where an applicant is convicted during the period of five (5) years immediately preceding the date of application for an offence involving moral turpitude and sentence for imprisonment for not less than two years. Section 6.2(f) relates to a situation where the applicant is facing trial in a criminal Court. The

¹ 2020 Cr.L.J.(SC) 572

petitioner therein was convicted in a case for the offences under Sections – 420, 468, 471 and 477A read with 120B of the Indian Penal Code and also Section 13 (2) read with Section 13 (1) of the Prevention of Corruption Act, 1988. Against which, an appeal was filed and the same was dismissed. The sentence was reduced to a period of one (01) year. The petitioner therein had approached the Apex Court by way of filing an appeal and the same is pending. Therefore, considering the said facts, the Apex Court held that Passport Authority cannot refuse renewal of the passport on the ground of pendency of the criminal appeal. Thus, the Apex Court directed the Passport Authority to renew/issue the passport of the applicant without raising the objection relating to the pendency of the aforesaid criminal case.

8. As directed above, the aforesaid criminal case is pending against the petitioner herein. She has submitted an application on 04.02.2022 for issuance of passport. Respondent No.2 is not considering the application for issuance of passport on the ground of pendency of the aforesaid criminal case. On the ground of pendency of the proceedings in criminal case, respondent No.2 cannot deny for

issuance of passport to the petitioner herein. There is no provision in the Passport Act or Rules/Regulations that passport cannot be granted on the ground of pendency of criminal cases. Further, the petitioner herein is standing on better footing than the petitioner in **Vangala Kasturi Rangacharyulu**. In view of the same, respondent No.2 cannot deny or refuse to issue passport to the petitioner.

9. In view of the aforesaid discussion, this writ petition is disposed of directing the respondent No.2 herein to consider the application No. HY4063932535122 dated 04.02.2022 submitted by the petitioner seeking to issue passport on the following conditions:-

- i) The petitioner herein shall submit an undertaking along with an affidavit in C.C.No.60 of 2022, pending on the file of Additional Judicial Magistrate of First Class, Bodhan, stating that she shall not leave India during pendency of the said C.C. without permission of the Court and that she shall co-operate with trial Court in concluding the proceedings in the said C.C.

- ii) On filing such an undertaking as well as affidavit, the trial Court shall issue a certified copy of the same within two (02) weeks therefrom;
- iii) The petitioner herein shall submit an application afresh along with certified copy of this order as well as the aforesaid undertaking before the Passport Officer/Authority concerned for issuance of passport;
- iv) On filing such an application, the Passport Officer/Authority shall consider the same afresh in the light of the observations made by this Court herein as well as the contents of the undertaking given by the petitioner for issuance of passport, in accordance with law, within three (03) weeks from the date of said application;
- v) Respondent No.2 shall consider Rule 12 of the Passport Rules, 1967 while considering the aforesaid application submitted by the petitioner.
- vi) On issuance of the Passport, the petitioner herein shall deposit the same before the trial Court in C.C.No.60 of 2022; and

vii) However, liberty is granted to the petitioner herein to file an application before the learned Magistrate seeking permission to travel abroad, and it is for the learned Magistrate to consider the same in accordance with law.

10. However, in the circumstances of the case, there shall be no order as to costs.

As a sequel, the miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

//TRUE COPY//

SD/- K. VENKAIAH
ASSISTANT REGISTRAR


SECTION OFFICER

To

1. The Secretary, Union of India, Ministry of External Affairs, New Delhi – 110001.
2. The Regional Passport Officer, Regional Passport Office, D.No.8-2-215 to 219, Kummarguda, Secunderabad, Telangana State.
3. The Additional Judicial, First Class Magistrate, Bodhan.
4. One CC to SRI D.BHASKAR REDDY, Advocate [OPUC]
5. One CC to SRI GADI PRAVEEN KUMAR, Dy. SOLICITOR GEN. OF INDIA [OPUC]
6. Two CD Copies

PSK.
GJP

HIGH COURT

DATED:18/10/2023

ORDER

WP.No.29393 of 2023



**DISPOSING OF THE WRIT PETITION
WITHOUT COSTS.**