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W.P.No.34840 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.34840 of 2024

R.Chandrasekar

... Petitioner

VS.

1.The Regional Passport Officer,
Regional Passport Office,
Tiruchirapalli New Municipal Complex,
Thillainagar, 7th Cross, Trichy.

2.The Inspector of Police,
Nagoor Police Station,
Nagapattinam

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent's renewal of his Passport vide No.V9991156 in pursuant to petitioner application dated TR2077001847724 dated 07.10.2024.

For Petitioner : Mr.P.Muthamizh Selvakumar

For R1 : Mr.K.Gangadaran
Central Government Standing Counsel

For R2 : Mr.L.Baskaran
Government Advocate (Crl.Side)



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ORDER

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By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. The petitioner herein seeks a direction to the respondents seeking renewal of his Passport No.V9991156 pursuant to his Application No.TR2077001847724, dated 07.10.2024.

3. It is the case of the petitioner that he used to go abroad in connection with his business regularly. The petitioner, who was already issued with a passport, filed an application on 07.10.2024 seeking renewal of the same as his passport got expired on 07.10.2024. The petitioner received a communication from the 1st respondent on 23.10.2024 stating that there was some adverse police report. Since the petitioner's application for renewal of passport was not processed by 1st respondent, he has come before this Court.



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4. Mr.K.Gangadara, learned Central Government Standing Counsel, who is taking notice for the 1st respondent would submit that the 1st respondent has issued a show cause notice to the petitioner and it is for him to submit his explanation for the same.

5. Mr.L.Baskaran, learned Government Advocate (Crl.Side), who is taking notice for the 2nd respondent filed a status report and submitted that a charge sheet was filed against the petitioner in C.C.No.613/2010 on the file of the Judicial Magistrate No.II, Nagapattinam and the said case ended in conviction by judgment passed on 19.06.2023. It is further stated that the petitioner was sentenced to undergo simple imprisonment for 2 years for the offence under Section 468 IPC and he was also imposed with a fine of Rs.5,000/-. Likewise the petitioner was sentenced to undergo simple imprisonment for 1 year on three counts under Sections 471, 420 and 120B IPC and he was also imposed with a fine of Rs.5,000/- for each of the offences.

6. Challenging the conviction and sentence, the petitioner preferred a criminal appeal in Crl.A.No.21/2023 on the file of the Principal Sessions



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Judge, Nagapattinam and the same is pending.

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7. The Apex Court in the judgment reported in **2013 (15) SCC 570**

(Sumit Mehta vs. State of NCT of Delhi) observed as follows:-

“The law presumes an accused to be innocent till his guilt is proved. As a presumable innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under Article 21 of the Constitution of India.”

8. In **Menaka Gandhi vs. Union of India** reported in **1978 (1) SCC 248**, the Apex Court had held that no person shall be deprived of his right to go abroad except by the fair procedure established by law:- The relevant observation reads as follows:-

“Thus, no person can be deprived of his right to, go abroad unless there is a law made by the State prescribing the procedure for so depriving him and the deprivation is effected strictly in accordance with such procedure. It was for this reason, in order to comply with the requirement of Article



21, that Parliament enacted the Passports Act, 1967 for regulating the right to go abroad. It is clear from the provisions of the Passports, Act, 1967 that it lays down the circumstances under which a passport may be issued or refused or cancelled or impounded and also prescribes a procedure for doing so, but the question is whether that is sufficient compliance with Article 21. Is the prescription of some sort of procedure enough or must the procedure comply with any particular requirements? Obviously, procedure cannot be arbitrary, unfair or unreasonable. This indeed was conceded by the learned Attorney General who with his usual candour frankly stated that it was not possible for him to contend that any procedure howsoever arbitrary, oppressive or unjust may be prescribed by the law.

Therefore, such a right to travel abroad cannot be deprived except by just, fair and reasonable procedure.”

9. In view of the law settled by the Apex Court in the above mentioned case laws, mere pendency of appeal against conviction is not a ground to refuse renewal of the passport. However, the petitioner is not entitled to visit abroad without getting necessary permission from the



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concerned Court.

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10. This Court in ***Sankaranarayanan vs. The Regional Passport Officer, Government of India*** reported in ***2016 SCC Online Mad 17590***, while considering similar question observed as follows:-

“29. It is to be borne in mind that undoubtedly, a citizen of a country has a Right to travel, but the same is not an absolute right. In the same breadth, when Criminal cases are pending against the Petitioner before a concerned Criminal Court and also that the Petitioner is to attend the Criminal Court on 19.07.2016 for certain charges against him in P.R.C.No.42 of 2013 and also he is to participate in the criminal proceedings, then this Court is of the considered view that the Petitioner has to file necessary Miscellaneous Application before the concerned Judicial Magistrate Court and to seek permission of the said Court to travel abroad.”

11. Therefore, mere pendency of the criminal appeal is not a ground for 1st respondent to refuse renewal of passport. However, it is made clear that the petitioner is not entitled to visit abroad without getting necessary permission from the Court in which the criminal appeal is pending. In view of the submission made by the learned counsel appearing for the 1st respondent that the petitioner has not submitted any explanation for the



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show cause notice, the petitioner is directed to submit his explanation to the show cause notice issued by the 1st respondent within a period of two weeks from the date of receipt of copy of this order. It is also open to the petitioner to get permission from concerned Criminal Court, on whose file the criminal appeal is pending by filing proper application. If any such petition is filed, the concerned Court shall consider the same and pass final orders on its own merits within a period of three weeks from the date of receipt of such application. If permission to visit abroad is granted by concerned Court, the copy of said order shall be produced by petitioner before Passport Authority to enable him to process petitioner's request. The 1st respondent shall consider the explanation offered by the petitioner in light of the law settled by the Apex Court in the above mentioned case laws and pass final orders on its own merits and in accordance with law, within a period of four weeks, thereafter.

12. With the above direction, the Writ Petition stands disposed of. No costs.

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Index : Yes/No

Speaking order: Yes/No



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Neutral Citation:Yes/No
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S.SOUNTHAR, J.

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