



WP(MD) No.11340 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **22.05.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.11340 of 2024

P.Pothiraj

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road, Madurai-625 002.

2.The State rep. by,
The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar District.

3.The State rep.by,
The Inspector of Police,
M.Reddiapatti Police Station,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st respondent to issue Passport based on the petitioner's Application in File No.MD1066224663924, dated 05.02.2024.

For Petitioner : Mr.B.Muneeswaran

For R1 : Mr.S.Jeyasingh,

Senior Central Government Standing Counsel



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For R2 & R3 : Mr.RMS.Sethuraman,
Additional Public Prosecutor

ORDER

The petitioner has filed this Writ Petition, seeking a Writ of Mandamus, directing the 1st respondent to issue Passport based on the petitioner's Application in File No.MD1066224663924, dated 05.02.2024.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner seeks issuance of passport. He has submitted an application before the jurisdictional passport officer. Apprehending that it may not be processed in view of his involvement in a criminal case, the present writ petition came to be filed.

4. When the matter was taken up for hearing, the learned Additional Public Prosecutor appearing for the 3rd respondent submitted that the criminal cases registered against the petitioner have since been charge sheeted and they have been taken on file in C.C.No.187 of 2022 on the file of the learned District Munsif Cum Judicial Magistrate, Thiruchuli and C.C.No.265 of 2023 on the



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file of learned Judicial Magistrate, Aruppukkottai. However, the petitioner was acquitted after trial in C.C.No.187 of 2022 by virtue of the judgment of the Trial Court dated 29.09.2023 and the case in C.C.No.187 of 2022 is adjourned to 18.06.2023.

5.The petitioner applied for passport on 05.02.2024 and he personally appeared before the first respondent on 25.04.2024. However, the petitioner has not been issued with the passport so far. Hence, the petitioner apprehends that by taking adverse notice of the criminal case pending against him, the application of the petitioner would not be considered favourably by the first respondent. It is submitted by the learned counsel for the petitioner that mere pendency of the criminal case cannot be a ground for refusing to issue passport.

6.It is further submitted by the learned counsel for the petitioner that the petitioner intends to go United Kingdom in order to attend the graduation ceremony of his son to be held on 18.06.2024. Despite the passport is issued to the petitioner's wife, the petitioner is awaiting result of his application. He further submitted that in an identical matter, liberty was given to the similarly placed person to move a miscellaneous petition before the trial



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Court itself, seeking permission to travel abroad and in the event of getting permission from the trial Court to travel abroad, the said order can be placed before the first respondent in order to enable him to dispose of the passport application favorably. It is relevant to extract the portion of the said order made in W.P.(MD)No.9288 of 2024 dated 29.04.2024 hereunder:

“5. The petitioner is given liberty to move the trial Court for the relief now sought for. As and when such miscellaneous petition is filed, it shall be numbered and disposed of within a period of three weeks thereafter. The learned trial Judge shall bear in mind that right to travel abroad is a fundamental right. The petitioner's career and avocation may be at stake if he is denied the right to go abroad. Therefore, the trial Court unless there are extraordinary circumstances shall not deny relief. Of course, the period of validity of passport will have to be restricted. It is also open to the trial Judge to stipulate appropriate conditions to ensure that the prosecution is not stalled on account of the petitioner's absence from India. If necessary, the applicant can be directed to file an application under Section 205 of Cr.P.C by executing a special vakalat.

6. Based on the order passed by the trial Court, the petitioner shall move the jurisdictional regional passport officer who shall dispose of the petition mentioned application in terms of the said order.”

7. The Petitioner is also a similarly placed person. Therefore, he is also at liberty to file a Miscellaneous Petition immediately before the



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jurisdictional Magistrate, before whom the case in C.C.No.187 of 2022 against the petitioner is pending. It is needless to state that in the event of such miscellaneous petition is filed, the Trial Court shall consider the same on the same date itself by bearing in mind the fundamental right of the petitioner to travel abroad and accord due permission, unless there are any extraordinary circumstances to deny the relief and however, by restricting the time limit and imposing conditions, if necessary.

8.In the event of, the petitioner gets an order from the trial Court, he is at liberty to place the same before the first respondent within a period of two days from the date of receipt of a copy of that order and the first respondent shall pass appropriate orders on the pending application of the petitioner within a period of three days thereafter.

9. With the above direction, the Writ Petition stands **disposed of**.

No costs.

22.05.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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Note: Issue Order copy on 23.05.2024.



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- To
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R.N.MANJULA, J.

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Order made in
W.P.(MD)No.11340 of 2024

22.05.2024