



W.P.(MD) No.24150 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.P.(MD) No.24150 of 2024**

Ramesh

... Petitioner

Vs.

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

2.The Inspector of Police,  
Ilathur Police Station,  
Ilathur, Tenkasi District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the first respondent to issue the Passport to the petitioner by considering the petitioner's application dated 11.09.2024 in reference to the File No.MD2066926621124, pending on the file of the first respondent forthwith.



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For Petitioner : Mr.J.Parekh Kumar  
For R1 : Mr.M.Karthikeya Venkatachalapathy  
For R2 : Mr.A.Albert James,  
Government Advocate (Crl.side)  
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### **ORDER**

This Writ Petition is filed for issuance of a writ of mandamus seeking a direction to the 1<sup>st</sup> respondent to issue passport to the petitioner by considering the petitioner's application dated 11.09.2024 in reference to the File No.MD2066926621124, pending on the file of the 1<sup>st</sup> respondent forthwith.

2. Mr.M.Karthikeya Venkatachalapathy, learned counsel takes notice for the 1<sup>st</sup> respondent and Mr.A.Albert James, learned Government Advocate (Crl.side) takes notice for the 2<sup>nd</sup> respondent.

3. With consent of both parties, this Writ Petition is taken up for final disposal at the time of admission itself.

4. The brief facts of the case, which are necessary for disposal of this Writ Petition, are as follows:



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i) The petitioner is an ex-service man and now he is working as the Senior Revenue Inspector in District Backward and Minority Welfare Office, Tenkasi. He is having unblemished record in his service. The petitioner is having a son namely, Kishore, who has completed his Higher Secondary School Education. Since the son of the petitioner wants to Medical Course in Abroad, he applied for MBBS Course in 'CAN THO' University, Vietnam. He also paid the Admission fee of Rs. 30,000/-. The above said Medical Course will be commenced from the month of November. In order to admission of the petitioner's son in Medical Course, he needs to go Vietnam along with his son.

ii) Therefore, the petitioner herein has applied for passport before the 1<sup>st</sup> respondent, the passport authority, vide Application No. M2066926621124 dated 11.09.2024 after obtaining prior permission from his head of department, namely, the District Collector, Tenkasi and he paid the necessary fee also.

iii) The petitioner's application to issue passport has not been considered by the first respondent herein on the ground that a criminal case is pending in Crime No. 66 of 2018 on the file the 2<sup>nd</sup> respondent police for the alleged offences under sections 279 and 337 of IPC. The above said case is an accident case. On 03.04.2018, when the petitioner returned to home from his office in Two Wheeler,



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all of a sudden one Sudalai, S/o. Murugaiah, rushed across the road in hurried manner and there was collision. Though the charge sheet has been filed, the said case is pending for the past six years without any progress. When the petitioner applied for issuance of passport, he failed to disclose the same mistakenly. It was neither wilful nor wanton. Subsequently, the petitioner appeared before the officials of the 1<sup>st</sup> respondent herein and explained the same. However, the respondent authority issued SCN/319626207/24 notice dated 30.09.2024 and called for explanation and keep the petitioner's application to issue passport as pending. Hence, the petitioner is before this Court by filing this Writ Petition.

5. The learned counsel for the petitioner submits that the medical course of the petitioner's son will be commenced from the month of November and the petitioner has to go to Vietnam along with his son for admission and when the petitioner applied for issuance of passport, he did not disclose the same mistakenly. The learned counsel further contends that as per the general principle, a person, accused of a criminal offence, is presumed to be an innocent, until he is proved to be guilty. He also adds that the pending criminal case is an accident case and when the petitioner returned to home from his office in two wheeler, all



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of a sudden one Sudalai, S/o Murugaiah rushed across the road in a hurried manner, due to which the accident occurred and the case is pending for the last six years without any progress.

6. In support of his contention, the learned counsel for the petitioner relied on a judgment of this Court in **R.Thenmozhi vs. The Government of India and another (W.P.(MD)No.9199 of 2018 decided on 25.04.2018)**, wherein this Court has dealt with the similar issue and issued a direction to the trial court to consider the petitioner's case favourably.

7. The learned counsel appearing for the 1<sup>st</sup> respondent and the learned Government Advocate (Crl.side) appearing for the second respondent unanimously submitted that a criminal case in S.T.C.No.1472 of 2018 is pending on the file of the District Munsif-cum-Judicial Magistrate, Sengottai as against the petitioner. The learned counsel appearing for the first respondent and the learned Government Advocate(Crl.side) appearing for the second respondent have not raised serious objections to issue a positive direction to the trial Court to consider the petitioner's case favourably.



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8. This Court has given its careful consideration to the submissions made by the respective counsels and perused the materials available on record.

9. On verification of E-Court Website, it is seen that a criminal case in STC.No.1472 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Sengottai is pending as against the petitioner for the alleged offences punishable under Sections 279 & 337 IPC. It is also seen that the accused ie., writ petitioner herein had engaged a counsel to defend his case.

10. It is pertinent to refer that the similar issue which has already been dealt with by this Court in W.P.(MD)No.19313 of 2024 by an order dated 13.08.2024 and the relevant paragraphs are extracted hereunder:-

*4.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 the relief. Of course, the period of*



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*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.*

*5. 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.*

**11.** Considering the above facts and circumstances of the case and the submissions made on either side, this Court is inclined to grant liberty to the petitioner to approach the trial court by filing an appropriate application.

**12.** On such filing of application, the learned District Munsif cum Judicial Magistrate, Sengottai shall consider and pass appropriate orders as expeditiously as possible, in accordance with law.



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13. With the above directions, this Writ Petition is disposed of with above directions. No costs.

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Internet : Yes / No

apd/CM

**Note: Issue Order Copy on 10.10.2024**

To

- 1.The Regional Passport Officer,  
Regional Passport Office,  
Bharathi Ula Veethi, Race Course Road,  
Madurai – 625 002.
- 2.The Inspector of Police,  
Ilathur Police Station,  
Ilathur, Tenkasi District.
- 3.The District Munsif cum Judicial Magistrate,  
Sengottai.



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**M.JOTHIRAMAN, J.**

apd/CM

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