



W.P.(MD).No.25477 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.25477 of 2024

W.Maria Jesu Dimson

... Petitioner

Vs.

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

2.The Inspector of Police,
Uvari Police Station,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to issue passport with the Booklet No. Y5700230 to the petitioner based on his Surrender Certificate dated 27.06.2024 in file No. MD2075462916723 on the file of 1st respondent.

For Petitioner : M/s. Rex Ma

For R-1 : Mr.V.B.Sundareshwar,
Central Government Standing Counsel

For R-2 : Mr.K.Gnanasekaran,
Government Advocate (Criminal side)



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ORDER

This writ petition has been filed to direct the 1st respondent to issue passport with the Booklet No. Y5700230 to the petitioner based on his Surrender Certificate dated 27.06.2024 in file No. MD2075462916723 on the file of 1st respondent.

2. Heard, M/s. Rex Ma, learned counsel appearing for the petitioner, Mr.V.B.Sundareshwar, learned Central Government Standing Counsel appearing for R-1, Mr.K.Gnanasekaran, learned Government Advocate (Criminal side) appearing for R-2 and carefully perused the materials available on record.

3. The petitioner applied for passport and was issued with a passport bearing No. Y5700230 in the year 2024. Due to adverse police report from the 2nd respondent police, the 1st respondent required the petitioner to surrender his passport, following which, the petitioner had duly surrendered his passport voluntarily and a surrender certificate has been issued to the petitioner and his passport is maintained in file No. MD2075462916723 and the same has been intimated to the petitioner by communication dated



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27.06.2024. Following which, the petitioner had submitted his oral explanation and required the 1st respondent for re-issuing the passport which is kept under the custody of the 1st respondent. Since the same was not considered, this writ petition came to be filed.

4. Mr.V.B.Sundareshwar, the learned Central Government Standing Counsel appearing for the 1st respondent submitted that a crime in Crime No.82 of 2021 on file of the 2nd respondent has been registered as against the petitioner under Section 294(b), 427, 436, 506(ii), 109, 352 of IPC and thereafter, the same has been committed from Judicial Magistrate Court, Radhapuram as PRC 52/2023 on the file of the Sessions Court on Tirunelveli on 23.08.2024. In view of the same, the petitioner's passport cannot be handed over back to him until the disposal of the said criminal case as against him in S.C.No.480 of 2024.

5. The submissions of the learned Central Government Standing Counsel was confirmed by Mr.K.Gnanasekaran, learned Government Advocate (Criminal side) appearing for R-2.



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6. However, it is the considered view of this Court that a passport being a travel document, the same cannot be ceased out from the petitioner on issuing simple direction to surrender the same and by issuing a surrender certificate. Under such circumstances, it is the right of the petitioner to hold a passport.

7. Hence, the petitioner is given liberty to move the Trial Court for the relief now sought for. As and when such a 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 the right to travel abroad is a fundamental right. Therefore, the Trial Court unless the existence of extraordinary circumstances shall not deny the re-issuance of passport to the petitioner. However, the period of validity of the passport will have to be restricted and it is 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 petitioner can be directed to file an application under Section 228 BNSS by executing a special vakalat based on the order passed by the Trial Court. The petitioner shall move the regional passport officer who will dispose of the petition mentioned application in terms of the orders passed by the learned Trial Court. On



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receipt of the order from the learned Trial Court, the petitioner may make an application afresh to the 1st respondent enclosing the orders passed by the learned Trial Court for appropriate disposal.

8. With the above directions, this writ petition is disposed of. No costs.

04.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

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

2. The Inspector of Police,
Uvari Police Station,
Tirunelveli District.



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L.VICTORIA GOWRI, J.

Sml

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