



W.P.(MD)No.28284 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **27.11.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.28284 of 2024

M.Logeshwaran

... Petitioner

Vs.

1.The Regional Passport Officer,
Regional Passport Office Madurai,
Bharathi Ula Veethi, Race Course Road,
Madurai - 625002.

2.The Inspector of Police,
Elayangudi Police Station,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to issue the passport to the petitioner on his application in File No.MD1076906594724 of the 1st respondent in a time bound manner.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.J.Mahendran (R1)

Central Government Standing Counsel

Mr.K.Gnanasekaran (R2)

Government Advocate



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ORDER

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Mr.J.Mahendran, learned Central Government Standing Counsel takes notice for the first respondent. Mr.K.Gnanasekaran, learned Government Advocate takes notice for the second respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. The prayer in the Writ Petition reads as follows:-

“To issue a Writ of Mandamus, directing the 1st respondent to issue the passport to the petitioner on his application in File No.MD1076906594724 of the 1st respondent in a time bound manner.”

3. Heard the learned counsel on both sides and carefully perused the entire materials available on record.

4. The petitioner's passport bearing No.M2356209 which was issued to him on 23.09.2014 got expired on 22.09.2014. Following which, the petitioner made an application for renewal of his passport on 22.09.2014. On receipt of the same, the first respondent issued a letter dated 18.09.2022 directing him to appear before the authority seeking explanation about the cases registered against him in Crime No.450 & 452 of 2020 on the file of the 2nd respondent



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police. Hence, the petitioner filed this writ petition seeking for the aforesaid relief.

5. When the matter was taken up for hearing, the learned Government Advocate (Criminal Side) appearing for the second respondent submitted that FIR in Crime No.450 of 2020 was registered by Elayangudi Police Station under Sections 147, 148, 448, 294(b), 323, 324, 506(2) of IPC and S(4) of TNPHW Act and the same has culminated in laying a charge sheet in C.C.No. 13 of 2023 on the file of Judicial Magistrate No.II, Elayangudi and the case in Crime No.452 of 2020 is in FIR stage itself.

6. It is a settled proposition of law that a mere pendency of FIR cannot be a bar for consideration of claim for issuance of passport. This Court in the case of *W.Jaihar William Vs State of Tamil Nadu* reported in **2014 (2) CWC 684** has held that mere pendency of FIR cannot be construed as pendency of criminal proceedings, unless Judicial Magistrate takes cognizance of offence, on filing of charge sheet on completion of investigation against the accused. Right to travel abroad is a fundamental right.

7. The petitioner is given liberty to move the learned Trial Court for the relief now sought for. As and when such miscellaneous petition is filed, it shall



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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 and the petitioner's career and avocation may be at stake, if he is denied the right to go abroad. Therefore, the learned Trial Court, unless there are extraordinary circumstances, shall not deny such relief. Of course, the period of validity of passport will have to be restricted. It is also open to the learned Trial Judge to stipulate appropriate conditions to ensure that the prosecution is not stalled on account of the petitioner's absence in India. If necessary, the applicant can be directed to file an application under Section 228 of Bharatiya Nyaya Suraksha Sanhita, 2023, by executing a special vakalat.

8. Based on the order passed by the learned 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, within a period of three weeks after such application is filed.

9. This Writ Petition is allowed on these terms. There shall be no order as to costs.

27.11.2024

NCC : Yes / No
Index : Yes / No



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TO:-

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- 1.The Regional Passport Officer,
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- 2.The Inspector of Police,
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Sivagangai District.



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L.VICTORIA GOWRI, J.

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Order made in
W.P.(MD)No.28284 of 2024

Dated
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