



W.P(MD)No.28956 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.28956 of 2024

Anish Aseer

... Petitioner

Vs.

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

2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli District.
(Crime No.728 of 2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to re-issue the passport to the petitioner by considering the petitioner's application in File No. MD2074092420122 dated 04.04.2022.

For Petitioner : Mr.K.Jeyamohan



W.P(MD)No.28956 of 2024

For Respondents : Mr.S.Pon Senthil Kumar
Central Government Standing Counsel
for R.1

Mr.K.Gnanasekaran
Government Advocate (Criminal Side)
for R.2

ORDER

This writ petition has been filed to direct the first respondent to re-issue the passport to the petitioner by considering the petitioner's application in File No. MD2074092420122 dated 04.04.2022.

2. Heard the learned counsel appearing for the petitioner, the learned Central Government Standing Counsel appearing for the first respondent and the learned Government Advocate (Criminal Side) appearing for the second respondent and carefully perused the entire materials available on record.

3. The petitioner has applied for re-issuance of a passport before the first respondent in File No.MD2074092420122. The first respondent issued a proceedings dated 23.04.2022 to the petitioner to give clarifications / explanations regarding the pending of three criminal cases



W.P(MD)No.28956 of 2024

against the petitioner. The said cases were closed and a report to the said effect was also obtained by the petitioner from the Inspector of Police and submitted the same before the first respondent. Subsequently, after Police verification, the first respondent once again objected the petitioner's request for re-issuance of passport by communication dated 25.07.20223 by citing that the above three cases are only pending investigation. Hence, the present writ petition came to be filed.

4. When the matter was taken up for hearing, the learned Government Advocate (Criminal Side) appearing for the second respondent submitted that three cases were registered against the petitioner. FIR in Crime No.728 of 2023 was registered by Palayamkottai Police Station on 26.06.2023 under Sections 147, 294(b), 323, 506(1) and 109 of IPC and the same has culminated in laying a charge sheet in C.C.No.1287 of 2024 on the file of Judicial Magistrate No.1, Tirunelveli. The other two cases (Crime No.733 of 2023 under Sections 107 & 145 of IPC and Crime No.767 of 2023 under Section 145 of IPC) were pending only at the FIR stage.



W.P(MD)No.28956 of 2024

WEB COPY

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 228 of BNSS, 2023 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.



W.P(MD)No.28956 of 2024

WEB COPY

7. The writ petition is allowed on these terms. There shall be no order as to the costs.

12.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

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W.P(MD)No.28956 of 2024

L.VICTORIA GOWRI, J.

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W.P(MD)No.28956 of 2024

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