



WEB COPY

WP No. 989 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 989 of 2026

Eswaramoorthi
S/o.Krishnamoorthy
No.1/190, Mela Street
Melapalaiyur, Virudachalam Taluk
Cuddalore District – 606 110.

..Petitioner(s)

Vs

1. The Regional Passport Officer
Regional Passport Office
Royala Towers, No. 2 and 3, 4th Floor
Old No.785, New No.158, Anna Salai
Chennai – 2.
2. The Inspector of Police
Karuveppilankuruchi Police Station
Cuddalore District.

..Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to consider petitioner's application Reference File No.MA6065671381025 pending on the file of 1st respondent in pursuant of petitioner's application dated 08.09.2025 and pass orders.

For Petitioner(s):

Mr.P.Muthamizh Selvakumar

For Respondent(s):

Mr.V.Thillai Kumar

Central Government Standing Counsel for R1

Mr.L.Baskaran

Govt. Advocate [Crl.Side] for R2



ORDER

The petitioner has filed the above writ petition seeking a mandamus to the 1st respondents to consider petitioner's application in Reference File No.MA6065671381025 and to issue passport.

2. It is the case of the petitioner that he had submitted his application for issuance of passport in the 1st respondent's portal on 08.09.2025, which was taken on file in Reference No.MA6065671381025/2025 and the date of interview was also fixed. Thereafter, vide letter of the first respondent dated 22.11.2025, the petitioner was informed that an adverse report against him was received from the second respondent.

3. The petitioner would submit that a case in Crime No.219/2025 was registered against him by the second respondent for the offences under Section 189(2), 126(2) of BNS Act, on the ground that on account of his brother's dead in a road accident, the petitioner and his relatives had conducted a protest, obstructing the public transport. Hence, the case came to be registered. According to the petitioner, the charges levied against him is not a grave offence and no final report was filed before the jurisdictional Court.

4. The petitioner would further submit that his intention seeking passport



is to visit the relatives and friends who are residing abroad and not to settle permanently in abroad.

WEB COPY

5. The learned Government Advocate appearing for the second respondent-police would submit that as against the petitioner, a case in STC.No.2209 of 2025 has been filed before the Judicial Magistrate No.II, Virudhachalam.

6. Heard the rival submissions of the counsels and this Court also perused the records.

7. The reason for not issuing the passport is attributed to the pendency of the criminal proceedings pending against the petitioner before the Judicial Magistrate No.II, Virudhuchalam. In a recent judgment of the Hon'ble Supreme Court in ***Mahesh Kumar Agarwal Vs Union of India and another*** arising out of SLP(C) No.17769 of 2025, the Hon'ble Supreme Court was considering a similar case of passport which was not being granted on account of the fact that the appellant therein was an accused in a case being investigated by NIA. The learned Judges after taking into consideration the statutory provisions and notifications relating to the issue on hand and after extracting the Passport Act and Rules of the G.O., has observed as follows :



WEB COPY



“8. From a conjoint reading of Sections 5, 6, 7 and 8 of the Passports Act, a structured scheme emerges. Section 5 is the starting point. It prescribes the manner in which an application for a passport is to be made and requires the passport authority, subject to the other provisions of the Act, to decide the application by issuing or refusing the passport through a written order. Section 6 qualifies that power and sets out, in an exhaustive manner, the grounds on which the passport authority shall refuse to issue a passport or travel document. Sub-section (1) deals with refusal of endorsements for particular countries. Sub-section (2) governs refusal of issue itself and again begins with the words “subject to the other provisions of this Act”. It obliges the authority to refuse issue where any of the situations in clauses (a) to (i) are present, including the pendency of criminal proceedings before a court in India under clause (f). Section 7 then addresses the duration of a passport. It provides that a passport shall continue in force for such period as may be prescribed, but also permits the authority, for reasons to be communicated in writing to the applicant, to issue a passport for a shorter period in an appropriate case. Section 8 deals with the converse situation where a passport has already been issued for a shorter period. It permits extension of such a passport, but expressly states that the provisions of the Act shall apply to such extension as they apply to the issue of the passport, thereby linking an extension back to the same statutory conditions and limitations that govern original issue under Sections 5 and 6.

9. Sections 9, 10 and 22 reinforce and complete this framework. Section 9 enables the Central Government, by rules, to prescribe the conditions subject to which and the form in



which a passport shall be issued or renewed. It also permits, with prior approval of the Central Government, the imposition of case-specific conditions in addition to the prescribed ones. Section 10 operates at a later stage and deals with the life of a passport after it has been issued. It empowers the passport authority, in defined situations, to require production of the passport and to impound or revoke it. One such situation, under Section 10(3)(e), is where proceedings in respect of an offence alleged to have been committed by the holder are pending before a criminal court in India. Section 22 then confers on the Central Government the power, where it considers it necessary or expedient in the public interest, to exempt any person or class of persons from the operation of specified provisions of the Act or the Rules, subject to conditions. It is in exercise of this power that GSR 570(E) was issued, creating a controlled exemption from the bar in Section 6(2)(f) in favour of persons facing criminal proceedings who obtain permission from the concerned court and comply with the conditions set out in that notification.

10. On a plain reading, GSR 570(E) does two things. First, it recognises that persons facing criminal proceedings are not to be treated as absolutely disentitled to a passport. Instead, it permits such persons to obtain a passport, notwithstanding Section 6(2)(f), where the concerned criminal court has applied its mind and passed an order in relation to issuance or use of the passport and where the applicant furnishes an undertaking to appear before the court as and when required. Secondly, it structures the exercise of that exemption by tying the validity and use of the passport to the terms of the court's order. Thus, where the court specifies a period for which the passport is to be issued, the passport authority must honour that period. Where



the court does not stipulate any period, the notification provides default rules, including issuance for a shorter period, ordinarily one year, in appropriate cases. What the notification does not do is to create a new substantive bar beyond Section 6(2)(f), or to insist that the criminal court must, in every case, grant a prior blanket permission to “depart from India” for specified dates as a jurisdictional precondition to the very issue or re-issue of a passport.

11. The OM dated 10.10.2019 does not create a new regime. It reiterates that GSR 570(E) must be “strictly applied”, explains the procedure where criminal cases are pending and makes it clear that a “no objection certificate” or permission from the criminal court, read with the applicant’s undertaking, may override an adverse police report with reasons recorded by the Passport Officer. It also contemplates situations where more than one court is dealing with the matter and indicates that the orders of all such courts are to be read together. The OM is thus an administrative restatement of the position under Section 6(2)(f), Section 22 and GSR 570(E), and cannot add to or cut down the exemption which the notification itself grants.”

8. The learned Judges relying upon the earlier judgment of the Hon’ble Supreme Court reported in ***Vangala Kasturi Rangacharyulu v. Central Bureau of Investigation [2021 SCC Online 3549]*** drew a distinction between a case facing trial in a Criminal Court and the person who is convicted, and pursuing an appeal and also how this would impact the issuance of the passport. The learned Judges after extracting the portions of the judgment has observed as follows :



WEB COPY



“20. It must also be noted that denial of renewal of a passport does not operate in a vacuum. This Court has repeatedly held in a catena of judgements⁶ that the right to travel abroad and the right to hold a passport are facets of the right to personal liberty under Article 21 of the Constitution of India. Any restriction on that right must be fair, just and reasonable, and must bear a rational nexus with a legitimate purpose.

21. The legitimate purpose behind Section 6(2)(f) and Section 10(3)(e) is to ensure that a person facing criminal proceedings remains amenable to the jurisdiction of the criminal court. That purpose is fully served in the present case by the conditions imposed by the NIA Court, Ranchi, and the Delhi High Court, which require the appellant to seek prior permission before any foreign travel and, in the NIA case, to re-deposit the passport immediately after renewal. To add to these safeguards an indefinite denial of even a renewed passport, when both criminal courts have consciously permitted renewal, would be a disproportionate and unreasonable restriction on the appellant’s liberty.”

9. Ultimately, the Court directed the authorities to re-issue the passport to the appellant subject to the compliance of the procedural requirements within a time frame. The Bench has observed that such issue of passport was subject to the condition that the appellant would not leave India without the permission of the Court concerned (Criminal Court) and should also deposit his passport in that Court as and when demanded.



10. The dicta laid down in the above judgment would apply on all fours to the case on hand. Therefore, the writ petition is allowed with a direction to the first respondent to issue the passport to the petitioner, subject to the condition that the petitioner shall not leave the shores of India, without obtaining the permission of the Judicial Magistrate No.II, Virudhachalam. No costs.

02-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

DS

To:

1. The Regional Passport Officer
Regional Passport Office
Royala Towers, No. 2 and 3, 4th Floor
Old No.785, New No.158, Anna Salai
Chennai – 2.
- 2.The Judicial Magistrate No.II
Virudhachalam.
- 3.The Inspector of Police
Karuveppilankuruchi Police Station
Cuddalore District.



WEB COPY

WP No. 989 of 2



P.T.ASHA J.

DS

WP No. 989 of 2026

02-02-2026