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WP No. 1848 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

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

WP No. 1848 of 2026

S. Musthafa

..Petitioner(s)

Vs

1. Regional Passport Officer

Chennai Royala Towers

No.2 and 3 IV Floor

Old No. 785, New No.158

Anna Salai, Chennai 600002.

2. The Inspector Of Police

E-2 Royapettah Police Station,

Chennai District.

..Respondent(s)

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 1st respondent to reissue the passport to the petitioner by considering the petitioners application dated 21.11.2025 vide Application Ref No. 25-1066276604 within the frame as fixed by the court.



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For Petitioner(s): Mr.T.Balaji

For Respondent(s): Mr.K.Balaji, CGSC for R1;
Mr.L.Baskar, Govt.Advocate (Crl.Side) for R2.

ORDER

The above Writ Petition has been filed for the following reliefs:-

“directing the 1st respondent to reissue the passport to the petitioner by considering the petitioners application dated 21.11.2025 vide Application Ref No. 25-1066276604 within the frame as fixed by the court.”

2. The petitioner had filed an application on 21.11.2025 for the re-issuance of his passport. Since the respondent had not processed the same, he sent a representation dated 18.12.2025 requesting the 1st respondent to process the application. As there was no response to the representation, the petitioner has approached this Court seeking a mandamus directing the 1st respondent to process his application.

3. The learned Government Advocate appearing on behalf of the 2nd respondent would submit that a case in Crime No. 1030 of 2012 is pending against the petitioner on the file of the E-2 Royapettah Police Station, Mylapore, Chennai.



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

5. The reason for not issuing the passport is attributed to the pendency of the criminal proceedings pending against the petitioner in Crime No.1030 of 2012. 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 :

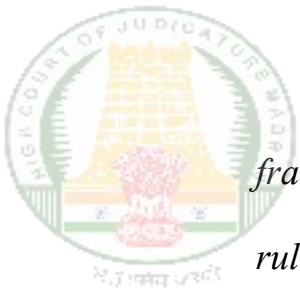
“8. From a conjoint reading of Sections 5, 6, 7 and 8 of the Passports Act, a structured scheme emerges. Section 5 is the starting point. It prescribes the manner in which an application for a passport is to be made and requires the passport authority, subject to the other provisions of the Act, to decide 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



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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



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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.



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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.



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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.”*

6. 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 :

“20. It must also be noted that denial of renewal of a



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.

8. The dicta laid down in the above judgment would apply on all fours to the case on hand. Therefore, the writ petition is allowed. The first respondent is directed to re-issue the petitioner's passport, after following due procedure, by considering the petitioner's application dated 21.11.2025, in the light of the dicta laid down by the Hon'ble Supreme Court in *Mahesh Kumar Agarwal v. Union of India and Another (cited supra)*. The said exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order. It is needless to state that for travelling abroad, the petitioner shall obtain prior permission from the concerned Judicial Magistrate in the event any case is pending against him at the time of travel. No costs.

03-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SHR



To

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