



W.P(MD)No.16567 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

Writ Petition(MD)No.16567 of 2026

Sivakumar Devamirtham

.. Petitioner

Vs

1.Unionr of India,
rep. by its Principal Secretary to Government,
Ministry of External Affiars,
Sashtri Bhavan, New Delhi.

2.The Regional Passport Officer,
Regional Passport Office,
Near Municipal Complex,
Thillainagar 7th Cross,
Thiruchirappalli - 620 018.

3.The State of Tamil Nadu
rep. by its Inspector of Police,
District Crime Branch, Thanjavur.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the respondent no 2 to renew the passport to the petitioner considering the application in File No. TR107689519426 dated 06.01.2026 within the time stipulate by this Court.



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For Petitioner : Mr.K.Pragadeeshkumar

For Respondents : Mrs.T.Saroja
Central Govt. Standing Counsel for R1

Mr.R.Mohamed Riyaz
Govt. Advocate (Crl. Side) for R2

ORDER

The petitioner is before this Court seeking issuance of a Writ of Mandamus to direct the respondent no 2 to renew the passport to the petitioner considering the application in File No. TR107689519426 dated 06.01.2026 within the time stipulate by this Court.

2. The learned Central Government Standing Counsel appearing for the first respondent and the learned Government Advocate (Criminal Side) appearing for the second respondent submitted that a criminal case has been registered against the petitioner and that a charge sheet has already been filed before the Judicial Magistrate No.II, Thanjavur, in C.C. No.42/2018.

3. The learned counsel for the petitioner submitted that the petitioner's husband is presently residing in Saudi Arabia and that his passport expired on 18.05.2026. In view of the expiry of the passport, the petitioner is unable to travel to India either for renewal of the passport or to appear before the concerned criminal Court.



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4. The Coordinate Bench had an occasion to consider a similar issue in W. P.(MD) No.7056 of 2017 (**N. Chandrababu vs. The Sub-Inspector of Police and another**), wherein it was held as follows:

“3)..... At this juncture, it may be relevant to discuss the legal position with regard to the right of a person facing criminal prosecution to demand issuance of passport. To decide this issue, it may be necessary to extract the following legal provisions from the Passports Act, 1967.

'Section 5(2) of the Passports Act, 1967 On receipt of an application under this section, the passport authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing,-

(a) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of the foreign countries specified in the application; or

(b) issue the passport or travel document with endorsement, or, as the case may be, make on the passport or travel document the endorsement, in respect of one or more of the foreign countries specified in the application and refuse to make an endorsement in respect of the other country or countries ; or

(c) refuse to issue the passport or travel document or, as the case may be, refuse to make on the passport or travel document any endorsement. Section 6(2) of the Passports Act, 1967. Subject to the other provisions of this Act, the passport authority shall refuse to issue



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a passport or travel document for visiting any foreign country under clause (c) of subsection (2) of section 5 on any one or more of the following grounds, and on no other ground,

- (a) that the applicant is not a citizen of India;*
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India;*
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India;*
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country;*
- (e) that the applicant has, at an time during the period of five years immediately preceding the date of his application, been convicted by a Court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years;*
- (f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a Criminal Court in India;*
- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a Court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such Court;*
- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation;*
- (i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.*



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4) For deciding the issue at hand, Section 6(2) (f) will be relevant. A reading of the said provisions shows that the power of the Passport Authority to refuse issuance of passport under Section 5(2)(c) is governed by Section 6(2). Thus, for any of the reasons given in Clause (a) to (i) of Section 6(2), the Passport Authorities can refuse to issue a passport in exercise of power under Section 5(2)(c). The Parliament, in its wisdom, has conferred the aforesaid power, which is administrative in nature, on the Passport Authority. The Central Government has issued the following Notification dated 25.08.1993, for regulating the exercise of power by the Passport Authority under Section 6(2) (f):

“In exercise of the powers conferred by clause (a) of Section 22 of the Passports Act 1967 (15 of 1967) and in supersession of the notification of the Government of India in the Ministry of External Affairs No.G.S.R.298(E), dated the 14th April, 1976, the Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India, from the operation of the provisions of Clause (f) of sub-section (2) of Section 6 of the said Act, subject to the following conditions, namely:

(a) The passport to be issued to every such citizen shall be issued:-

(i) for the period specified in order of the court referred to above, if the court specifies a period



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for which the passport has to be issued; or (ii) if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for a period one year

(iii) if such order gives permission to travel abroad for a period less than one year, but does not specify the period validity of the passport, the passport shall be issued for one year; or

(iv) if such order gives permission to travel abroad for a period exceeding one year, and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

(b) any passport issued in terms of (a) (ii) and (a) (iii) above can be further renewed for one year at a time, provided the applicant has not travelled abroad for the period sanctioned by the court; and provided further that, in the meantime, the order of the court is not cancelled or modified; (c) any passport issued in terms of (a) (I) above can be further renewed only on the basis of a fresh court order specifying a further period of validity of the passport or specifying a period for travel abroad;

(d) the said citizen shall give an undertaking in writing to the passport issuing authority that he shall, if required by the court concerned, appear before it at any time during the continuance in force of the passport so issued.

5. From a reading of the aforesaid Notification, in the opinion of this Court, the expression 'concerned Court' will mean the Court before whom the person is facing the prosecution. In this case, had there not been a quash petition



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pending, the 'concerned Court' would be the learned Judicial Magistrate No.V, Trichy before whom the petitioner is facing trial in C.C.No.21 of 2015. However, this Court, in exercise of its power under Section 482 of Cr.P.C., has admitted CrI.O.P.(MD)No.3533 of 2017 and has granted stay of all further proceedings in C.C.No. 21 of 2015 on the file of Judicial Magistrate No.V, Trichy. Under such circumstances, the expression 'concerned Court' in the context of the present case will mean the High Court and not the Judicial Magistrate No.V, Trichy."

5. The Coordinate Bench of this Court in W. P. (MD) No.22222 of 2022 in the case of **S.Muniasamy vs.- the Union of India and others**, following the aforesaid pronouncement of this Court, vide order, dated 21.09.2022, had issued the following directions:-

- (a) The petitioner is directed to make a representation to the Consulate General of India, Indian Embassy at Abudapy along with a copy of this order;*
- (b) Immediately on receipt of such representation, the Passport of the petitioner shall be re-issued/renewed for a period of two years;*
- (c) On such re-issuance/renewal, the petitioner shall come over to India and take immediate steps to participate in the criminal proceedings and work out his remedy and defend himself in the case;*
- (d) The petitioner shall also file a memo before the concerned Court, where the criminal case is*



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pending and bring to the notice of the said Court, the orders passed in this writ petition; and (e) If in case the criminal case does not come to an end within the period for which the passport has been re-issued/renewed, the petitioner shall get the necessary permission only from the concerned Court in line with the notification issued by the Government of India through the Ministry of External Affairs in G.S.R.298(E) dated 14.04.1976.”

6. In light of the above, this writ petition is disposed of with the following directions:

(a) The petitioner shall make a representation to the Consulate General of India in Saudi Arabia, enclosing a copy of this order;

(b) Upon receipt of such representation, the passport of the petitioner shall be re-issued/renewed for a period of two (2) year, within a period of two (2) weeks from the date of receipt of a copy of this order;

(c) Upon such re-issuance/renewal, the petitioner shall return to India and take immediate steps to participate in the criminal proceedings and defend himself in accordance with law;

(d) The petitioner shall also file an appropriate memo before the jurisdictional Court where the criminal case is pending, bringing to its notice the order passed in this writ petition;



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(e) In the event that the criminal proceedings are not concluded within the period for which the passport has been re-issued/renewed, the petitioner shall obtain necessary permission from the jurisdictional Court for further renewal, in accordance with the notification issued by the Government of India, Ministry of External Affairs, in G.S.R. 298(E), dated 14.04.1976.

7. There shall be no order as to costs.

24.06.2026

NCC : Yes/No

Index : Yes/No

Internet:Yes

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To

1.The Principal Secretary to Government,
Ministry of External Affairs,
Sashtri Bhavan, New Delhi.

2.The Inspector of Police,
District Crime Branch, Thanjavur.



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HEMANT CHANDANGOUDAR, J.

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