

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Special Original Jurisdiction )  
Tuesday, the Seventh day of January Two Thousand Twenty

PRESENT  
**The Hon`ble Mr.Justice S.S.SUNDAR**

WP(MD) No.24591 of 2018

GIDEON JACOB

... PETITIONER

Vs

- 1 THE FOREIGNERS' REGIONAL REGISTRATION OFFICER (FRRO),  
NO.26, SASTHRI BHAVAN ANNEXE BUILDING  
HADDOWS ROAD, NUNGABAKKAM, CHENNAI- 600 006.
- 2 THE ASSISTANT FOREIGNERS' REGIONAL REGISTRATION OFFICER (AFRRO),  
BUREAU OF IMMIGRATION IMPOUNDING,  
CHENNAI INTERNATIONAL AIRPORT,  
CHENNAI- 600 027.
- 3 THE REGIONAL PASSPORT OFFICER,  
REGIONAL PASSPORT OFFICE,  
TIRUCHIRAPPALLI-620 002
- 4 THE STATE OF TAMIL NADU,  
REP. BY ITS INSPECTOR OF POLICE,  
CENTRAL BUREAU OF INVESTIGATION  
(CBI) SPECIAL CRIME BRANCH (SCB) CHENNAI.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ or order or Direction in the nature of Writ, very particularly Writ of Certiorarified Mandamus, calling for the records in relating to the impugned letter dated 13.6.2018 issued by the 2nd Respondent Assistant Foreigners' Regional Registration Officer, quash the same and further directing the respondents herein to handover the Petitioners Indian Passport bearing No.Z4212230 to the Petitioner.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.Isaac Mohanlal, Senior Counsel for M/S.K.SAMIDURAI, Advocate for the petitioner and of Mr.V.Kathirvelu, Assisted by M/s.S.Raghaventhre, CGSC for R1 to R3, and Mr.N.Nagendran, Special Public Prosecutor for CBI for R4, the

<http://www.judis.mtc.in> made the following order:-

The Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the impugned letter, dated 13.06.2018 issued by the second respondent and to direct the second respondent to hand over the petitioner's passport.

2.The case of the petitioner in brief is that the Inspector of Police, K.K.Nagar, Trichy, registered a case against the petitioner for non registration of a Home run by the petitioner. Another case was also registered by the fourth respondent, CBI, against the petitioner. The Honourable Division Bench of this Court in W.P.(MD)Nos.16273 and 20895 of 2015 directed the fourth respondent / CBI to complete the investigation in the case registered by CBI and to file a report. Though the petitioner cooperated with the further investigation, it is stated by the petitioner that the petitioner was arrested and taken into CBI custody. It is also stated that the petitioner was released on bail subject to certain conditions and that all the conditions were also relaxed later one by one by orders of Court.

3.In the meanwhile, the petitioner's passport was seized and it is contended by the petitioner that the petitioner was orally informed that his passport was impounded in view of two criminal proceedings pending against the petitioner. When the petitioner approached the third respondent / Regional Passport Officer, he came to know that the passport was not impounded. However, the third respondent did not return the passport, even though no proceeding, as contemplated under Section 10(3)(e) of the Passsport Act, 1967, is initiated by the third respondent. When the petitioner wanted to go abroad to visit his wife in Germany, it is stated by the petitioner that he was not allowed on the ground that his passport is impounded. Though the petitioner's trip to a foreign country is not prohibited by any Court order, it is stated that the petitioner was not permitted to leave from the Country only on the ground that the Passport is impounded. Despite the fact that no proceeding is initiated for impounding the passport of the petitioner, it is seen that the petitioner was put to lot of inconvenience.

4.The petitioner has come forward with the present Writ Petition stating that his passport should be returned to him, so as to enable him to visit his wife in Germany, who is undergoing medical treatment. Mere pendency of criminal case does not automatically disable the petitioner from going abroad.

5.The learned Assistant Solicitor General of India, on instructions, submitted that the Passport Officer is unable to handover the passport to the petitioner, as the final report has been filed by the CBI in connection with the criminal case registered by them pursuant to the direction of this Court. It is suggested by the learned Assistant Solicitor General of India

that the Passport Officer may not have any objection, if the fourth respondent permit the petitioner to travel abroad. Though the learned Assistant Solicitor General of India has no valid defence to retain the passport without initiating any proceeding for impounding the same, he would only submit that the Passport Officer cannot permit a citizen to take a trip abroad, when a criminal case is pending before the Criminal Court in India. He has also produced before this Court, the notification issued by the Ministry of External Affairs, dated 25.08.1993.

6.The learned Counsel for the fourth respondent submitted that the final report has been filed before the Chief Judicial Magistrate Court, Trichy and that the same was taken on file. However, the case number is not given. It is in the said circumstances, the learned Counsel for the fourth respondent submitted that CBI is interested only in securing the petitioner's presence in connection with the proceedings, that is pending before the Court. The learned Counsel for the fourth respondent also submitted that the fourth respondent may give permission to the petitioner to go abroad, subject to satisfying the fourth respondent by producing immovable property as security and on surety by a blood relative of petitioner.

7.Though several legal issues have been raised in this matter in relation to the validity of the impugned order and the authority of respondents to prevent the petitioner from travelling abroad without even initiating a proceeding under Section 10(3) of Passport Act, without going into those contentious issues, this Court is of the view that the petitioner may be permitted to travel abroad subject to certain reasonable conditions, that is imposed by the fourth respondent and expressed before this Court. The learned Senior Counsel for the petitioner states that the petitioner is prepared to offer immovable property worth about Rs.2,00,00,000/- to the satisfaction of the fourth respondent as security and a surety from his blood relative. In such circumstances, this Court is inclined to pass the following order:

"The petitioner is directed to appear before Inspector of Police, namely, Mrs.Vaishnavi, CBI (Special Crime Branch), Chennai, within two days. On production of document / bond, offering immovable property for a value not less than two crores as security and one surety from any blood relative of the petitioner, the third and fourth respondents shall permit the petitioner to visit his wife in Germany and the fourth respondent shall give necessary orders giving No Objection for the petitioner's foreign trip and the third respondent shall hand over the passport to the petitioner, so as to enable the petitioner to go abroad. The petitioner shall give an undertaking that his stay in abroad will not exceed beyond three weeks."

8.Post the matter after three weeks.

sd/-  
07/01/2020

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/ /2020  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

- 1 THE FOREIGNERS' REGIONAL REGISTRATION OFFICER (FRRO),  
NO.26, SASTHRI BHAVAN ANNEXE BUILDING  
HADDOWS ROAD, NUNGABAKKAM, CHENNAI- 600 006.
- 2 THE ASSISTANT FOREIGNERS' REGIONAL REGISTRATION OFFICER (AFRO),  
BUREAU OF IMMIGRATION IMPOUNDING,  
CHENNAI INTERNATIONAL AIRPORT, CHENNAI- 600 027.
- 3 THE REGIONAL PASSPORT OFFICER,  
REGIONAL PASSPORT OFFICE, TIRUCHIRAPPALLI-620 002
- 4 THE INSPECTOR OF POLICE,  
THE STATE OF TAMIL NADU,  
CENTRAL BUREAU OF INVESTIGATION  
(CBI) SPECIAL CRIME BRANCH (SCB) CHENNAI.

**Copy To:**

- 1.THE CHIEF JUDICIAL MAGISTRATE, TRICHY
- 2.MRS.VAISHNAVI,  
INSPECTOR OF POLICE,  
CBI (SPECIAL CRIME BRANCH), CHENNAI,

+1. C.C. to M/S.K.SAMIDURAI Advocate SR.No.260

ORDER IN  
WP(MD) No.24591 of 2018  
Date :07/01/2020

cmr

<http://www.judis.nic.in> SAR 4/07.01.2020/4P/8C