

THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO.16252 OF 2023

ORDER:

The present Writ Petition is filed by the petitioner under Article 226 of the Constitution of India, seeking the following relief:

"...to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents 2 and 3 in releasing the passport of the petitioner vide Passport No.Z6829036 dated 14.7.2022 in spite of her representation dated 16.5.2023 made to the 2nd respondent herein, though her name has been deleted in the charge sheet filed by the S.H.O of Chirala - I Town P.S relating to the Crime No.403 of 2021 of I Town P.S Chirala dated 2.5.022 wherein the petitioner is the Accused No.4, without showing any proper reason or authentication is highly illegal, arbitrary, unconstitutional against the Principles of Natural Justice besides Article 14, 21 and 300-A of the Constitution of India and consequently direct the respondents to release the Passport No.Z6829036 dated 14.7.2022 to the petitioner forthwith and pass such other order or orders as this Hon'ble High Court may deem fit and proper in the circumstances of the case...."

2. The short grievance of the petitioner herein is that, the respondent authorities are not releasing the petitioner's passport *vide* Passport No.Z6829036, in spite of the petitioner's representation dated 16.05.2023 made to the 2nd respondent though the petitioner's name was deleted from the charge sheet filed by the Station House Officer of Chirala I Town Police Station in Crime No.403 of 2021 dated 02.05.2022, wherein, the petitioner was shown as Accused No.4.

3. Heard Sri S. Varadarajulu Chetty, learned counsel for the petitioner and Sri G. Arun Showri, learned Central Government Counsel and learned Assistant Government Pleader for Home.

4. Learned counsel for the petitioner, in elaboration to what has been stated in the affidavit contended that, the petitioner's name was deleted from the charge sheet as his involvement is not there in the said crime and in spite of deleting the petitioner's name from the charge sheet, the passport authorities are not releasing the petitioner's passport, as such, the petitioner made a representation dated 16.05.2023 to the 2nd respondent. As the 2nd respondent did not consider the said representation, the present Writ Petition is filed.

He further submitted that, the petitioner's case does not fall under Section 6(2)(f) of Passport Act 1967 and in spite of having knowledge that, the petitioner's name was deleted from the charge sheet, the respondent authorities are not releasing the petitioner's passport. As such, prayed to pass appropriate orders in this regard.

5. On the other hand, learned Assistant Government Pleader for Home, on written instructions, submitted that, after completion of investigation, charge sheet has been filed, deleting the petitioner's name, as there is no involvement of the petitioner in the said crime. The said written instructions are placed on record and has drawn the attention of this Court to the same.

6. Similarly, learned Central Government Counsel on written instructions, submitted that, though the petitioner's name was deleted from the charge sheet, it is in their notice that the *defacto*- complainant has filed a Protest Petition. In view of the same, the petitioner's representation was not considered and her passport is not released.

7. Perused the record and the instructions placed on record by the respective counsel of the respondents.

8. It is evident from the record that, in spite of submitting a representation dated 16.05.2023 to the 2nd respondent for release of passport, the 2nd respondent did not pass any order. It is not in dispute that the petitioner's name was deleted from the charge sheet and as on today, there is no criminal case pending against the petitioner. There is no explicit bar in respect of issuance of passport to such person. The relevant provision applicable to the facts of the present case is Section 6(2)(f) of Passport Act, 1967. For expediency the same is extracted hereunder:

“(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely:—

.....

(f) that proceedings in respect of an offence alleged to have been committed by the applicant are pending before a criminal court in India;”

9. In ***Vagala Venkata Siva Kumar Vs State of Andhra Pradesh***, this Court has categorically held that, as per Section 6(2)(f) of the Passport Act, 1967, the passport authority shall refuse to issue passport or travel document for visiting any foreign country, if criminal proceedings are pending against the applicant in India.

10. A bare reading of the Passport Act, 1967 reveals that there is no absolute bar for issuance of passport. As per Section 6(2)(f) of the Passport Act, 1967 when the passport authority refuses to grant passport, the Court while exercising its discretion has to look at the facts and circumstances of the each case. Mere pendency of crime cannot be a reason to refuse to renew the passport. In the present case, as on today there is no pendency of criminal proceedings.

11. Taking the submissions of the learned counsel into consideration, instead of keeping the Writ Petition pending, this Court is inclined to dispose of the Writ Petition with the following direction:

“The respondent authorities are directed to consider issuance of passport to the petitioner bearing No.Z6829036 dated 14.7.2022 by duly considering the representation of the petitioner dated 16.05.2023, in accordance with law”.

12. Accordingly, this Writ Petition is **disposed of**.

There shall be no orders as to costs.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

16th August, 2023
DSB