

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Sri. Anil.K.Bhaskar, Judge for NIA Cases

Wednesday the 10th day of May, 2023/ 20th Vaisakha, 1945

Crl. M.P. No.227/2023 in SC.02/2023/NIA

Petitioner/Accused No.2 :- : Karamana Ashraf Moulavi **(A2)**
Toufeeq Manzil, Palli Street, Karimbuvila,
Poonthura, Poonthura P.S,
Thiruvananthapuram-695 026.
**By Adv. M/s. P.C. Noushad, John.S. Ralph
and Muhammed Rifa.**

Respondent/Complainant : Union of India represented by National
Investigation Agency.
**By Adv. Sri. Ajith Kumar.S.
(Special Public Prosecutor, NIA) and
Sri. Sreenath.S. (Public Prosecutor, NIA).**

This Criminal M.P coming on for hearing before me on 10.05.2023 and the Court on the same day passed the following:

ORDER

1. This petition is preferred on behalf of the petitioner Ashraf @ Ashraf Moulavi (A2) who is in judicial custody presently detained in High Security Prison, Viyyur, Thrissur, seeking escort parole for one day to visit his father's brother Abdul Rasheed who is aged and ailing.

2. The petitioner is accused no.2 in the above case. He is in judicial custody for more than seven months. He hails from Trivandrum district. He is presently detained in High Security Prison, Viyyur, Thrissur. His father's brother Abdul Rasheed is aged 74 and is sick and infirm. He is suffering from advanced Parkinsonism Type-II DM. He is in a bed bound stage since December 2021. He is

on tube feeding. This will be born out from the medical certificate produced along with the petition. The petitioner would submit that his ailing father's brother is on his death bed and the petitioner cherish a wish to visit him and to spent some time with him. For all these reasons, petitioner prays for an escort parole.

3. A report was called for from the Jail Superintendent. It is submitted that Rule 415 of the Kerala Prisons and Correctional Services (Management) Rules, 2014 stipulates that convicted prisoners who are not eligible for any kind of leave are eligible for escort parole with police escort to meet and spend time with their ailing parents, but that provision is not applicable to under trial prisoners. It appears from the report that unless the concerned court grant escort parole it is not possible for the under trial prisoner to visit his ailing close relatives.

4. The learned prosecutor who received notice on behalf of prosecution doesn't seriously oppose the application but insisted for imposing stringent conditions to ensure that the petitioner shall not misuse the escort parole to meet outsiders so as to adversely interfere in the evidence collected by the prosecution.

5. The investigation in this case is over and final report already filed. The materials on record including the medical certificate produced on the side of the petitioner, will convincingly prove that the petitioner's father's brother is aged, infirm and sick, probably he is passing through the last days of his life. In this circumstance, I find it justifiable to grant escort parole to the petitioner to meet and spend time with his ailing father's brother from his house for a reasonable time of about three hours subject to the usual conditions to ensure the safety and security of the petitioner and also to protect the interest of the prosecution.

In the result, the petition allowed as follows:-

1. The petitioner Ashraf @ Ashraf Moulavi is permitted to visit his father's brother's house "Muneer Manzil, Manja P. O., Nedumangad" on a day in between 15.05.2023 & 01.06.2023, in order to meet his ailing father's brother Abdul Rasheed who is residing in the said house and to spend time with him for three hours.
2. During his stay at his house, the petitioner shall not contact any outsiders except his blood relations or wife and he shall not attend or make any phone calls.
3. The petitioner is not given permission to visit any other place or residence except that of his ailing father's brother Abdul Rasheed.
4. The Superintendent of the Jail where the petitioner is accommodated, shall fix the date and make all necessary arrangements for the travel with adequate security.
5. Permission is granted to accommodate the petitioner in the nearest District jail or Sub jail if required during transit.
6. The NIA will co-ordinate with the Superintendent of the jail concerned to ensure that adequate arrangements are made for security.
7. The protocol and guidelines if any issued by the Central and State Governments in connection with the Covid-19 pandemic shall be strictly followed.
8. The Superintendent of jail will report compliance of the order to this court within two weeks from the date of compliance.

9. Issue free copy of this order to both sides. Forward a copy to the Jail Superintendent via email for information and compliance. Jail superintendent shall serve a copy to the petitioner.

Dictated to the Confidential Asst., typewritten by her directly to computer system, corrected and pronounced by me in open court on this the 10th day of May, 2023.

Sd/-
Anil.K.Bhaskar
Judge, Special Court for NIA Cases

Appendix: Nil

Id/-
Judge, Special Court for NIA Cases
(By Order)

//True Copy//

Sd/-
Sheristadar