

IN THE COURT OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-I,
PERUMBAVOOR

Present:Sri.Anish Babu M.B, Judicial Magistrate of First Class-I

Dated this the 17st day of October, 2023

CMP No. 2989/23 IN C.C No.249/2015

Petitioner/Accused No.3 : Muhammed Anvar, aged 37/23, S/o Yousaf Moulavi,
Manalikkudy House, Pezhakkappilly Kara, Mulavoor
Village, Muvattupuzha Taluk, Ernakulam.

(By Adv. K.V Mathappan)

Respondents/Complainants:1. The Regional Passport Officer, Passport Office,
Aluva.

2. State represented by the Sub Inspector of
Police, Perumbavoor P.S (Cr.No. 2340/13)

(By Smt.Dr.Geetha K.K, A.P.P, JFCM-I)

ORDER

This petition is filed by the petitioner/accused No.3 for getting permission from the court for renewing his passport bearing no.X 5671310.

2. The case of the petitioner is that he is the accused No.3 in Perumbavoor Police Station Crime No. 2340/2013 alleging commission of offences punishable under Sections 9, 10, 11 of Prohibition of Child Marriage Act. The petitioner submitted that the maturity period of his passport bearing no. X 5671310 will expire on 07.02.2024. The petitioner is now in need of permission from this Court to apply for renewing his passport bearing no. X 5671310 to go abroad for performing 'umra'.

3. Heard the learned counsel for the petitioner and the Assistant Public Prosecutor. The Learned Assistant Public Prosecutor filed a report raising an objection since there is every chance to cause hindrance in the trial, and chance to go

abroad, if passport is renewed as sought in this petition. Hence they pray to dismiss the petition.

4. It is well settled that an accused is presumed innocent unless and until he is found guilty. It can be seen that the courts have consistently held that the pendency of a criminal proceeding is not a bar for obtaining a passport or for travelling abroad. The Government of India has issued a Notification No. G.S.R.570 (E) dtd. 25.08.1993, under S.22 of the Passport Act. **The Hon'ble High Court of Kerala has also considered the said notification in its decision in Asok Kumar v. State of Kerala, reported as 2009 (2) KLT 712** and granted permission to the accused to travel abroad. **The Hon'ble High Court of Kerala in Mohamad Shafi v. Regional Passport Officer, reported as 2017 (2) KHC 484** had held that criminal court is vested with ample power to issue directions for providing passport for a specific period and the magistrate can fix the period for travelling abroad or even issue directions to issue the passport for a specified period in accordance with the facts and circumstances of each and every case.

5. In the case on hand, the petitioner is the accused No.3 in Perumbavoor Police Station Crime No. 2340/2013 alleging commission of offences punishable under Sections 9, 10, 11 of Prohibition of Child Marriage Act. According to the petitioner, he is totally innocent in the matter. Recently, **the Hon'ble High Court of**

Kerala in Akhilesh v. State of Kerala and Ors., reported as 2021 (2) KHC 752, has held that the court where the case is presently pending has to decide whether the applicant is entitled to get a passport as well as the period for which he is entitled to get a passport and the court has to keep in mind the fact that pendency of a criminal case shall not stand in the way or cause hindrance to decide the future of the applicant. The petitioner herein is now in need of permission from this Court for renewing his passport bearing no.X 5671310 to go abroad for performing 'umra'. After all, the present petition is to renew the existing passport and not for seeking any permission to go abroad. Considering the facts narrated, the petition is allowed. Intimate the Regional Passport Officer, Ernakulam that pendency of this case is not a bar to renew the passport bearing no.X 5671310 of the petitioner/accused no.3 for a period of one year. It is made clear that the petitioner/accused no.3 shall not leave the country without obtaining express permission from the court.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected and revised by me and pronounced in open court on the 17th day of October, 2023.)

sd/-

Judicial First Class Magistrate-I, Perumbavoor