

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 26th day of May, 2023/05th Jyeshtha, 1945
CMP No.5016/22 IN CC No. 589/2022

Petitioner/Accused No.17 : Renu Suresh, Aged 45/22, W/o Suresh,
Kanniyarackal House, Kaduval, Perumbavoor P.O,
Perumbavoor Village.
(By Adv. P. Sajeev)

Respondents : State represented by the Sub Inspector of Police,
Perumbavoor P.S (Cr.No.23/22)
(By Smt. Geetha K.K, APP, JFCM-I)

ORDER

This petition is filed by the petitioner/accused no. 17 for getting permission to issue her new passport.

2. The case of the petitioner/accused No.17 is that she is the accused No.17 in Perumbavoor Police Station Crime No. 23/22 alleging commission of offences punishable under Sections 153, 143, 147, 283 r/w 149 of the Indian Penal Code, 1860 & Section 4 and 6 of Public Ways (Restriction of Assemblies and Procession Act, 2011) It is also submitted that the petitioner/accused No.17 is the State Secretary of Bharatiya Janatha Party and she intents to travel to U.S.A to attend a programme on January, 2023. The petitioner/accused No.17 is now in need of permission from this Court to issue new passport.

3. Heard the learned counsel for the petitioner/accused No.17. Copy of the petition has been furnished to 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 if the petitioner is permitted to go abroad as sought in this

petition and also it will give wrong message to the society.

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.17 in Perumbavoor Police Station Crime No.23/22 alleging commission of offence punishable under Sections 153, 143, 147, 283 r/w 149 of the Indian Penal Code, 1860 & Section 4 and 6 of Public Ways (Restriction of Assemblies and Procession Act, 2011). According to the petitioner/accused No.17, she 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/accused No.17 herein is now in need of permission from this Court to issue her new passport and to go abroad to attend a programme at U.S.A. Though the date of visit specified in this petition has been elapsed, I do not find any reason to decline the prayer for getting a passport. Considering the discussion made herein above, the petition is allowed for limited purpose as stated in the petition. The petitioner/accused No.17 is permitted to renew her passport subject to following conditions:-

1. Intimate the Regional Passport Officer, Ernakulam that pendency of this case is not a bar to renew the passport of the petitioner/accused No.17 for a period of 1 year.
2. It is made clear that the petitioner/accused No.17 shall not leave the country without obtaining express permission from the court.

Pronounced by me in open court on the 26th day of May, 2023.) Sd/-

Judicial First Class Magistrate-I, Perumbavoor

