

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 28<sup>th</sup> day of February, 2023/ 16<sup>th</sup> Phalguna 1944

CMP No. 634/23 IN CC No.942/2018

Petitioner/Accused No.2 : Fayas, Aged 33 years, S/o Ahmed, Molath House,  
Edayappuram, aluva P.O, Ernakulam District.  
(By Adv.K.K Nasseer)

Respondents : State represented by the Sub Inspector of Police,  
Perumbavoor P.S (Cr.No.2471/18)

(By A.P.P-JFCM-I)

ORDER

This petition is filed by the petitioner/accused No.2 for getting permission to renew his passport bearing No. S. 8958216 and to go abroad.

2. The case of the petitioner/accused No.2 is that he is the accused in Perumbavoor Police Station Crime No.2471/18 alleging commission of offences punishable under Section 323, 324, 325, 294(b), 143, 144, 147, 148, 149 r/w 149 of the Indian Penal Code, 1860. The petitioner is now in need of permission from this Court to renew his passport bearing No. S. 8958216 and to go abroad.

3. Heard the learned counsel for the petitioner. 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.2 in Perumbavoor Police Station Crime No.2471/18 alleging commission of offence punishable under Sections 323, 324, 325, 294(b), 143, 144, 147, 148, 149 r/w 149 of the Indian Penal Code, 1860. 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 to renew his passport and to go abroad for performing Umra. Considering the discussion made herein above, the petition is allowed for limited purpose as stated in the petition. The petitioner/accused No.2 is permitted to renew his passport bearing No. S. 8958216 and to go abroad only for performing Umra subject to following conditions:-

1. The petitioner shall execute a bond for Rs.50,000/- with two solvent sureties for the like sum.
2. The petitioner shall make arrangements to receive the summons or other process issued to him and shall furnish to the court the name and address of person whom he authorises in this behalf.
3. Intimate the Regional Passport Officer, Ernakulam that pendency of this case is not a bar to renew the passport bearing No. S 8958216 of the petitioner/accused No.2 for a period of 1 year.

Pronounced by me in open court on the 28<sup>th</sup> day of February, 2023.)

Sd/-  
Judicial First Class Magistrate-I, Perumbavoor

