

IN THE COURT OF THE ADDITIONAL SPECIAL SESSIONS JUDGE,
(SPE/CBI)-III, ERNAKULAM

Present :-

SRI.SHIBU THOMAS, SPECIAL JUDGE.

Thursday, the 12th day of October, 2023/ 20th Aswana, 1945.

Crl. M.P. No. 2616 of 2023

in

S C No. 421/2017

Petitioner/Accused No.32

P. Jayarajan, S/o KunhIRaman, aged 67 years,
Residing at Kairali, Pookode P.O., Pattiyam Amsom,
Kongatta Desom, Thalasseery Taluk,
Kannur District – 670643.

By Advs. Sri. K. Viswan & Arun Bose D.

Respondent/Complainant

The Central Bureau of Investigation, Special Crime Branch,
Thiruvananthapuram, represented by Public Prosecutor – CBI.

By Adv. Sri. M. Navas, Special Public Prosecutor

These petitions coming on for hearing on 12th day of October, 2023 in the presence of Counsel on both sides having stood over for consideration on the same day the Court delivered the following:

O R D E R

Petition filed by the petitioner seeking the return of his passport.

2. Petitioner is accused No.32 in this case. He has filed this petition seeking the return of his passport to enable him to travel abroad to visit

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his son in Dubai. The case is registered u/s. 143, 147, 148, 447,450,294(B), 506(1), 364, 341, 323, 324, 307, 302, 109, 201, 118, 120B r/w. 149 IPC against the petitioner. The petitioner's son is employed in Dubai, and the petitioner and his wife intend to visit their son. The petitioner has previously obtained a passport with Court permission and surrendered it as per the order of this Court. Now, petitioner is seeking return of passport for one month to apply for a visa to travel abroad.

3. Respondent filed objection stating that case is posted for hearing the discharge petition filed by the petitioner himself. Moreover, after framing of charge, the trial of case shall begin and sec.273 Cr.P.C requires that evidence shall be recorded in the presence of the accused person. Therefore, the principle of fair trial also requires the presence of accused in India for his own benefit. There is no emergency for the petitioner to go to Dubai other than a pleasure trip. If the petitioner is allowed to leave the country, there is likelihood of the petitioner fleeing from justice and tampering evidence.

4. Heard both sides.

5. The point for determination is, Whether there is sufficient ground to allow the petition?

6. The point:- The petitioner seeking return of his passport for enabling him to travel abroad for a period of one month. The petitioner intends to visit his son working in Dubai. Petitioner has filed this petition for releasing his passport for stamping visa in the passport to visit his son who resides in Dubai for one month.

7. In this case, the Hon'ble High Court of Kerala directed CBI to conduct a further investigation in Cr.No.136/2012 of Kannapuram police station, Kannur, pertaining to the murder of Sri. Abdul Shukkur. CBI filed final report against thirty three accused including the petitioner. Petitioner alleges discrimination in the investigation. Petitioner claimed that he has not committed any offence and he was implicated in this case only to wreak political vengeance.

8. It is noted that the discharge petition filed by the accused /petitioner is posted for hearing in November and the trial of this case is scheduled to be commenced after framing of charge.

9. Taking into consideration the delay in commencing the trial and recognizing the humanitarian aspect of petitioner's request, this Court in exercise of its discretionary power inclined to allow the petition subject to following conditions:-

1. Petitioner shall execute a bond for Rs. 1,00,000/- (Rupees One Lakh only) with two solvent sureties each for the like sum.

2. The petitioner is permitted to obtain and retain his passport for a period of one month from the date of this order.

3. He shall surrender his passport on or before 13.11.2023.

4. Petitioner shall not leave the State without permission of this Court.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open Court on this the 12th day of October, 2023.

Sd/-
SHIBU THOMAS
Special Judge, (SPE/CBI) – III
Ernakulam

Appendix:- Nil

Id/-
Special Judge, (SPE/CBI)-III.

Typed by:-
Compd by:-