

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

Present :-

SRI.SHIBU THOMAS, SPECIAL JUDGE.

Friday the 2nd day of February, 2024/13th Magha, 1945.

Crl. M.P No.117/2024 in C.C. No.4/2017

Petitioner/Accused No.2: Shri.Thomas Mathew @ Tom Mathew,
aged 45 years, S/o.P.J.Mathew, Flat No. 405,
4th Floor, Kings Apartments, Next to
JW Marriott Hotel, Juhu Tara Road,
Juhu, Mumbai-400049.

Represented By : Advs. M.A. Mohammed Siraj, Rizlana Nazar,
Cyril Tom and Naveen.A.Varkey.

Respondent/Complainant: Central Bureau of Investigation,
represented by its prosecutor,
CBI-III Court, Ernakulam.

Represented by : Adv.M. Navas, Public Prosecutor.

This petition coming on for hearing on 02.02.2024 in the presence of
Counsels on both sides having stood over for consideration on the same
day the Court passed the following:

ORDER

Petition filed by 4th accused for obtaining NOC for re-issuance of passport for a period of ten years.

2. The petitioner/4th accused in the above case was granted bail by this Court with conditions, including not leaving the country without prior permission. It is submitted that original passport of the petitioner was lost in Mumbai on 28.11.2023 and he filed a petition before the police of Greater Mumbai on the same day. He produced the copy of the petition as Annexure A. He also filed an affidavit stating the same before this Court on 03.01.2024. As a part of his business, petitioner needs to visit various countries in order to meet his clients and to carry out his business activities. Thus it became a necessity to get a valid passport to earn his livelihood. It is also submitted that the petitioner co-operated with the investigation and he appeared before Court on summons and he will not travel abroad without the permission of this Court. He relied on the judgments of the Hon'ble High Court in Thadevoos Sebastian Vs. The Regional Passport Officer (2021 (5) KHC 625) and another, Bipin Philip Vs. State of Kerala dated 11.08.2023 in CrI. MC. 5271/2023 and also

relied on Akhilesh Vs. State of Kerala and others (2021 (2) KHC 752) and prayed to issue a NOC for re-issuance of passport for a period of ten years.

3. The respondent has not filed a written objection, but submitted that a time limit should be imposed for applying for a new passport and also submitted that a condition should be imposed to surrender the passport before the Court and he shall not be allowed to leave the Country without permission of this Court.

4. Heard both sides

5. The point for determination is, whether there is sufficient ground for allowing the petition and issuing NOC for re-issuance of passport for a period of ten years?

6. **The Point:-** The petitioner is the 4th accused. The petition is filed for no objection certificate for re-issuance of passport for a period of ten years. Petitioner is a business man and as part of his business, he has to visit various countries in order to meet his clients and to carry out his business activities. The original passport of the petitioner was lost in Mumbai on 28.11.2023 and on the same day, he filed a petition before the Greater Mumbai police. The petitioner produced the true copy of the said petition along with this application. Thus a valid passport became a major

requirement and is a necessity for the petitioner to earn a living, the counsel for the petitioner contended. Therefore, the petitioner intends to apply for re-issuance of passport. The learned Prosecutor fairly submitted that the prosecution has no objection in allowing the petition after imposing conditions regarding the period of passport and travel restriction.

7. The learned counsel for the petitioner produced a copy of Notification GSR.570(E) dated 25.08.1993, issued by the Central Government under section 22(a) of the Passport Act, 1967 in the public interest. It is seen from the notification that it exempts the citizens of India who have pending criminal cases against them from the restriction of obtaining a passport, if they produce orders from the Court concerned permitting them to depart from India. The notification also specifies the conditions for issuing passport to such citizens, such as the period of validity, the undertaking to be submitted, and the obligation to appear before the Court if required. It is revealed from the notification that the following conditions are mentioned in the notifications about the period of validity of the passport to be issued to such citizens who have pending criminal cases against them: the passport shall be issued for the period in the order of the Court, if the Court specifies a period for which the passport

has to be issued; or if no period either for the issue of the passport or for the travel abroad is specified in such order, the passport shall be issued for the period of one year: or if such order gives permission to travel abroad for a period less than one year, but does not specify the period of validity of the passport, the passport shall be issued for a period of one year; or if such order gives permission to travel abroad for a period exceeding one year, and does not specify the period of validity of the passport, then the passport shall be issued for the period of travel abroad as specified in the order of the Court. The said notification was upheld by the Hon'ble High Court of Kerala in several cases, such as S.K. Asok Kumar Vs State of Kerala (2000 KHC 557) and Thadevoose Sebastian Vs. Regional Passport Office and another (2021 (5) KHC 625) etc.

8. In Akhilesh Vs. State of Kerala and others (2021 (2) KHC 752), Hon'ble High Court of Kerala held that the Court where the case is presently pending (not by any other Court) has to decide whether the applicant is entitled to get a passport as well as the period for which he is entitled to hold the passport. It further held that the Court has also to keep in mind the fact that pendency of criminal trial shall not stand in the way or cause hindrance to decide the future of the applicant.

9. Considering the above, the petitioner seeks permission to obtain a fresh passport, which is necessary to visit various countries in order to meet his clients and to carry out his business activities. Taking into account the early stage of the case, the possible delay in the trial, the petitioner's compelling reasons for fresh passport, the interest of justice and the rights of the petitioner to go abroad, this Court grants permission to the petitioner to obtain a fresh passport for a period of three years. Therefore, the petition is partly allowed with the following conditions:-

1. Petitioner shall produce the new passport before the Court within ten days of receipt of passport.
2. Petitioner shall not leave the country without prior 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 2nd day of February, 2024.

Sd/-
Shibu Thomas
Special Judge, (SPE/CBI) – III
Ernakulam

Appendix: Nil.

Id/-
Special Judge, (SPE/CBI) – III

