

**IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS-II,
HOSDURG**

Present: Balu Dinesh

**JUDICIAL FIRST CLASS MAGISTRATE-II
HOSDURG**

Dated this the 28th day of March, 2026

CMP 1/26 in CC 328/26

Petitioner : Shareefa A H, aged 35/26 years
D/o Aleema, Rifaiya Quarters, Cherumba,
Panayal Village, Kasaragod.
(Represented by Adv.C H Nusaib
Hosdurg)

Respondent : SHO Bekal Police Station
Crime No.1036/25
: Regional Passport Officer, Kozhikode
Represented by Smt. Sheeja A M, APP,
Hosdurg

ORDER

- 1 This is a petition filed by the petitioner invoking Section 22(a) of the Passport Act read with Gazette Notification viz., GSR 570(E) dated 25/08/1993 published by the Central Government of India. The petitioner seeks an exemption from the operation of Section 6 (2) (f) of the Passport Act.

PETITIONER'S CASE

- 2 The petitioner is the fifth accused in CC 328/26 registered against her under Sections 121(1), 132, 126(2), 190 of Bharathiya Nyaya Sanhitha. The petitioner had already appeared before the Court and she is on bail. The petitioner intends to go abroad in connection with her employment and for the same she seeks to apply for new passport. If she is not allowed to go, then she would be put into undue hardship and irreparable loss. The petitioner also undertakes to appear before the Court as and when required and is ready to comply with any condition imposed by the Court.

RESPONDENT'S CONTENTIONS

- 3 The respondent stated that there are no other cases pending against the petitioner in Police Station. However, the petitioner is facing trial in this Court and if she is allowed to go abroad then there is a high chance that the trial of the case will get delayed.

MATERIALS BROUGHT ON RECORD

- 4 No materials produced by the petitioner.

POINT FOR CONSIDERATION

- 5 Based on the rival contentions, a question arises as to whether the petitioner is entitled to an order granting permission to apply for new passport.

DISCUSSION

- 6 The petitioner had filed an application for permission to apply for new passport. *Moosa Pattupara v. State of Kerala* 2022 (2) KHC 293 it was held by the Honble High Court of Kerala that “S.6 deals with the refusal of issuance of passport whereas S.10 deals with impounding of the passport already issued. As per S.6(2) (f), the passport issuing authority shall be bound to reject the application for passport if criminal proceedings are pending in any Court in India whereas under S.10(3)(e) of the Act, the passport authority may impound or revoke the passport or travel document if proceedings in respect of an offence alleged to have been committed by the holder of the passport or travel document are pending before a Criminal Court in India. If the passport has already been issued, its compounding or revocation is not automatic even if a crime is pending against the passport holder. It is discretionary on the part of the passport authority. The petitioner's passport had not been impounded in accordance with law and, hence, he is the holder of a valid passport.”
- 7 It is discernible from the aforesaid dictum that there is no need to seek permission from Magistrate when a person holds a valid passport unless the bail order stipulates that she shall not leave India without the permission of the Court. In this case though there is no such condition in the bail order, the petitioner had to apply for new passport and hence permission of the Magistrate is necessary for apply for new passport. In *Thadevoose Sebastin v. Regional Passport Office* 2021 (5) KHC 625 it was held by the Hon’ble High Court of Kerala that the parameters that shall govern the grant of permission by the Criminal Courts in the matter

of issuance of passports to those involved in criminal proceedings pending in Courts shall be as follows: (i) The stage of the criminal proceeding and the duration of time within which the trial may take place; (ii) The criminal antecedents and past conduct of the accused; (iii) The nature and gravity of the crime; offences under Statutes dealing with acts of terrorism and acts of smuggling should require a different consideration. (v) Chances of the accused fleeing or evading the trial in the case; (vi) Mode in which the presence of the accused can be ensured during trial. (vii) Since in cases where time is not fixed by the Magistrate while granting permission, the Passport authorities are issuing passports only for one year, the period for which the accused can be permitted to travel can also be fixed by the Magistrate, while granting permission.

8 The petitioner had appeared before the Court and was enlarged on bail by this Court. The case is still at its bud stage. His antecedents are deemed to be good. The petitioner has undertaken that he shall appear in Court as and when necessary and had also undertaken to abide by any conditions imposed by the Court. In this light this Court deems it fit to grant permission to the petitioner to apply for passport subject to the following conditions:

- 1 Petitioner is exempted from the operation of Sec. 6 (2) (f) of the Passport Act for a period of two year.
- 2 She shall not leave India except with the prior permission of this court.
- 3 Before leaving India, he shall furnish her residential and official address at abroad and she shall also furnish the address of her close relative on whom summons or notice on her behalf can be served.

- 4 She shall also file an undertaking that service of summons or notice on such close relative shall be deemed to be service on her.
- 5 She shall also file an undertaking that she will appear before the court as and when directed and that she will not claim his right u/s.273 Cr. PC and that her absence during trial will not be taken as a ground either in appeal or in revision.

(Dictated to CA and transcribed by her and verified by me and pronounced by me in open Court on 28th day of March, 2026).

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE-II
HOSDURG

//True copy//

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