

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, KOLLAM

Present: Sri. Unnikrishnan.M.S., Chief Judicial Magistrate

Dated:- Saturday, the 31st day of January, 2026.

CMP No.9860/2025 in CC 38/2022

Petitioner/1st accused :- Abu Soofiyan.M.S, aged 27,
S/o. Muhammed Siddik, Shahana Manzil,
Vaduthala, Panmana P.O., Kollam 691 583.

(By Adv. Sri.Jiju Babu.S)

Respondents :- State of Kerala represented by the Station House
Officer, Kollam East Police Station.

(By Smt. Sindhu.C, Deputy Director of Prosecution,
Kollam)

This case coming today for hearing, the court delivered the following:-

ORDER

This is an application seeking permission to go abroad for a period of 5 years and to issue a No Objection Certificate to the Regional Passport Officer to issue a duplicate passport for the accused.

2. The averments in the petition runs as follows:

The petitioner is the 1st accused in the above crime in which prosecution alleges offences u/ss. 294(b), 332 r/w. 34 IPC and s.3 r/w.s.4 of the Kerala Health Care Service Person and Health Care Institution (Prevention of Violence and Damage of Property Act, 2012). He is the only breadwinner of the family consisting of wife and aged parents. He wants to go abroad for his livelihood. His Passport bearing no.S0059789 was lost and he applied for a duplicate passport. He is ready to comply with the conditions imposed by this court. He sought for permitting him to go abroad for a period of 5 years and to issue a No Objection Certificate to the Regional Passport Officer to issue a

duplicate passport for a period of 5 years to the accused. Hence filed this petition.

3. Police Inspector, Kollam East police station filed report stating that if the petition is allowed, it will cause delay in the proceedings in this case.

4. Heard.

5. The points that arise for consideration are:-

1) Whether the petitioner entitled to get an order sought for?

2) What is the order to be passed?

6. **Point No. 1 :-** I have gone through the records and heard both sides carefully. The petitioner sought for a permission to go abroad for his livelihood. The prosecution objects the application on the ground that on the event of allowing this application, the prosecution may be staled. On going through the records, it is seen that the case against the petitioner is arising out of crime No.1106/2021 of Kollam East Police Station. Since he wants to go abroad in connection with his job, he cannot be asked to appear before this court on every occasion. The petitioner has already undertaken that he is ready to comply with the directions imposed by this court.

7. Going by Sec.6(2) (f) of the Indian Passport Act, if a proceeding in respect of an offence alleged to have been committed by the applicant for passport is pending before a criminal court in India, the passport authority should refuse to issue a passport or a travel document for visiting any foreign country. As per the notification No.GSR 570 (E) dated 25.08.1993, if the criminal court before which the case of the applicant is pending permits him to depart from India, the applicant will be exempted from the operation of the provision of Sec.6(2)(f) of the Passport Act. As per the said notification, the passport authority concerned can issue passport on the basis of an order permitting him to depart from India, produced by the applicant from the criminal court in which

such proceedings are pending. Power to issue such passport is subject to the following conditions:-

- (i) For the period specified in the order of the court referred to above, if the court specifies a period for which the passport has to be issued ; or
- (ii) if no period either for the issue of passport or for the travel abroad if specified in such order, the passport shall be issued for a period of one year; or
- (iii) 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 one year ; or
- (iv) if such order gives permission to travel abroad for a period exceeding one year and does not specify the validity of the passport, then the passport shall be issued for the period of travel abroad specified in the order.

8. The aforesaid notification also directs the applicant to give an undertaking in writing to the passport authority that he shall if prescribed by the court concerned appear before it at any time during the continuance in force of the passport so issued. it is clear that this court can grant permission to the applicant to go abroad and on the basis of that the passport authority can issue passport.

9. The accused is on bail in this case. Considering the present stage of the case, I am of the view that the petition can be allowed. This point is found in favour of the petitioner.

10. **Point No.2:-** In view of my finding on Point No.1, petition is allowed as follows:-

- 1) This court has no objection to issue a duplicate passport for the petitioner if he is otherwise eligible,

- 2) He shall appear before the court as and when required by this court.
- 3) He shall file an application for exempting him from appearance at this court undertaking that he shall not dispute his identity or raise any objection regarding the evidence taken in his absence.
- 4) Permission is granted to the petitioner to go abroad for a period of four years.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected and pronounced by me in Open Court on this, the 31st day of January, 2026.

Chief Judicial Magistrate