

**IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS,
TALIPARAMBA**

Present:- Sri.**Prasanth.K.N**, Additional District and Sessions Judge
Friday the 10th day of October, 2025/ 18th Aswina, 1947

Crl.M.P. Nos. 574/2025 & 575/2025 in SC 599/2019

(C.P.No. 38/2019 of Judicial First Class Magistrate,Payyanur)

(Crime No. 486/2015 of Pariyaram Police Station)

Crl.MP. 575/2025:

Muhammed Ashraf.T.K, S/o.Usman, Aged 38 years Thunthakkachi House, Kuppam, Pariyaram amsom Pariyaram, Kannur District, Kerala, India.		Petitioner/ Accused No.8
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Vs.

Station House Officer, Pariyaram Police Station, Pariyaram.		Respondent
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Petition filed under **Section 22(a)** of the **Passport Act**.

Crl.MP. 574/2025:

Muhammed Ashraf.T.K, S/o.Usman, Aged 38 years Thunthakkachi House, Kuppam, Pariyaram amsom Pariyaram, Kannur District, Kerala, India.		<u>Petitioner/</u> Accused No.8
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Vs.

Station House Officer, Pariyaram Police Station, Pariyaram.		Respondent
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Petition filed under **Section 355** of the BNSS to exempt the petitioner.

These petitions are coming on this day for hearing before me in the presence of Sri.Moideen Kutty.K, Advocate for the Petitioner/Accused No.8 in both petitions and the Court passed the following:-

COMMON ORDER

Crl. M.P 575/2025

1. This petition is filed under *Section 22(a)* of the *Passport Act* to grant permission to the petitioner/eight accused to travel abroad.

Crl. M.P. 574/2025

2. This petition is filed under *Section 355* of the *BNSS* to exempt the petitioner/accused from his appearance.

The facts of the case

3. The petitioner is the eight accused in *Crime No. 486/2015* of Pariyaram Police Station, for the alleged offences under *Sections 143, 147, 148, 342, 323, 324, 506(ii), 304 r/w 149 of IPC*. The petitioner wants to go abroad for employment and has filed the above petitions.

4. The Station House Officer has filed an objection report, raising concerns about the possibility of fleeing from justice and contending that the trial will be dragged out.

5. Heard both sides and perused the records.

Points raised for consideration

1. *Can permission be granted to the petitioner to go abroad?*
2. *Is the petitioner entitled to the exemption from his appearance?*

Discussion on Points no.1 and 2

6. These points are considered together for brevity. In exercise of the powers conferred under *Section 22(a)* of the Act, the Central Government issued a notification, *GSR 570 (E), dated 25.08.1993*, exempting the rigours of *Section 6(2)(f)* of the Act, subject to certain conditions. It is relevant to note that by *Section 22* of the Act, the Central Government is empowered to exempt any person or class of persons from the operation of the provisions of the Act.

7. In *Moosa Pattupura V. State of Kerala, 2022(2) KHC 293*, the Hon'ble High Court held that the principles laid down in *Bhaskar Industries Limited V. Bhiwani Denim, AIR 2001 SC 3625*, for granting exemption from personal appearance to the accused can be applied in appropriate sessions cases as well. Moreover, the pendency of a criminal case alone shall not be the sole reason for rejecting an application seeking permission to travel abroad by the petitioner.

8. However, the Station House Officer filed an objection report, primarily raising concerns about the possibility of the petitioner fleeing from justice. It is important to reiterate that the petitioner is on bail with two solvent sureties and has regularly appeared before the Court, demonstrating his unwavering commitment to the legal process. This court, after careful consideration of the circumstances, is of the view that the apprehension expressed by the police can be addressed by imposing stringent conditions.

9. Apart from that, the right to travel abroad is a fundamental right guaranteed under *Article 21* of the Constitution of India. As per the decision of the constitutional courts in *Francis Manjooran V. Government of India, 1965 KHC 290* and *Maneka Gandhi v. Union of India, AIR 1978 SC 597*, it is held that no person shall be deprived of his right to go abroad unless there is a law made by the state prescribed in the procedure for so depriving him and it shall strictly in accordance with such procedure.

10. Based on the above discussions and the pendency of the cases before this court, I am of the view that the case will not be taken up for trial shortly, and the petitioners' prayer can be allowed with stringent conditions. The points are answered accordingly.

Resultantly, the petitions are allowed on the following conditions.

1. If he is not otherwise ineligible, permission is granted to the petitioner to go abroad for two years, from **15.10.2025** to **15.10.2027**.
2. The petitioner is exempted from his appearance for two years, from **15.10.2025** to **15.10.2027**.
3. The petitioner shall not dispute his identity or object to the trial being conducted in his absence and shall file an affidavit for the same.

4. Duly authorized counsel shall represent the petitioner on every posting date. *However, whenever the court directs his appearance, he shall appear before the court irrespective of the permission granted.*
5. The petitioner shall deposit a sum of **₹20,000** (Rupees Twenty Thousand only) as cash security.
6. *Needless to say*, if the petitioner fails to comply with any of the conditions, the amount of bond executed at the time of bail, and the cash deposit will be forfeited.

(Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court, this the 10th day of October 2025).

Sd/
ADDL. DISTRICT AND SESSIONS JUDGE,
TALIPARAMBA

Appendix :- Nil

Sd/
ADDL. DISTRICT AND SESSIONS JUDGE,
TALIPARAMBA

