



ORDER BELOW EXH.5 IN R.C.C. NO.189/2023

This is an application by accused no.9, Ashraf Ali Jamshid Ali, seeking direction to the Regional Passport Office, Nagpur, for issuance of passport for the purpose of Haj pilgrimage. The applicant is a permanent resident of village Dhotra Shinde, has a fixed address, and good social standing as former Sarpanch. The present criminal proceedings under the IPC are the only cases pending against him, and he is on bail. The applicant desires to travel to Saudi Arabia along with family in the upcoming Haj season (2025-26) and, for that purpose, applied for a passport (application no. NG4065429265625). Passport and police authorities have sought court permission, owing to the pending trial.

2. The applicant further submits that merely because a criminal proceeding is pending, his statutory right to a passport should not be defeated or hindered, especially for religious purposes. He undertakes not to abscond and to comply with any conditions imposed by the court, including seeking permission before leaving the country.

3. The learned A.P.P. opposed the application, stating that the charges are serious. Granting permission may result in the accused absconding, thereby stalling trial proceedings. Therefore, he prayed for rejection of the application

4. In case of **Deepak Chhabria vs. Union of India and another, AIR, 1997, Bom.181**, Hon'ble Court held that, pendency of criminal case is not a bar to issuance of Passport if applicant obtains permission

from concern criminal court to go abroad as per notification issued by Central Government. As per notification of Government of India in the Ministry of External Affairs no.G.S.R.570(E) the exemption is granted to the citizen of India against whom proceeding in respect of offence alleged to have been committed by them are pending before criminal court in India and to produce orders from the court concern permitting them to depart from India, from operation of the provisions of clause I of sub-section II of section VI of The Passport Act, 1967.

5. I have carefully perused the application and case pending against them. In this regard Section 6(2)(f) of the Passports Act, 1967 bars grant of passport when a criminal case is pending except with court permission or government exemption. However, the Ministry of External Affairs' notification (GSR 570(E) dated 25-8-1993) and repeated high court judgments (e.g., Rajasthan HC, Allahabad HC, Delhi HC) have clarified that permission of the court is a sufficient safeguard for the passport authority to consider the application. The mere pendency of a trial does not automatically bar permission, especially when there is no cogent material of likelihood of absconding, and the right to travel, especially for Haj pilgrimage, is of constitutional and personal importance. It is well-settled judicial practice that the court can impose stringent conditions, including surety, obtaining travel details, fixed period of travel, and prohibiting disposal of property, to ensure the accused's presence. The applicant wants to visit abroad. The applicant being responsible citizen, it is legal and proper to permit him depart from India despite pendency of criminal case against him. The matter will not be disposed of in near future. Therefore, it is just and proper to grant permission. Hence the

application is allowed in view of the notification of Government of India as referred above. However, certain condition needs to be imposed. In view of the above, the application is deserves to be allowed subject to the following conditions-

ORDER

- a) The Regional Passport Office, Nagpur, is permitted to issue a passport to accused no.9, Ashraf Ali Jamshid Ali, solely for the purpose of Haj pilgrimage for a period specified as per the Haj program, on submission of travel itinerary and related documents to the Court.
- b) The accused shall file an undertaking that he will not leave India except for Haj pilgrimage, and will return within the scheduled period, reporting his return to this Court.
- c) The accused shall not leave the country at any other time without express prior permission of this Court.
- d) The accused shall file surety and/or security to the satisfaction of the Court, if deemed necessary, to ensure his return.
- e) The accused's bail/surety bonds shall remain in force, and any violation will entail liability under law.
- f) The Investigating Officer/Prosecution shall be informed in advance regarding travel dates, and may request any additional precautions. The accused also undertake to appear before court through his advocate and conduct the hearing in his absence.

- g) The passport authority shall be provided a copy of this order for compliance.

Date :17/09/2025.

(A.G.Tamboli)
Judicial Magistrate, F.C.
Murtizapur

CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Steno	P. J. Yadav.
Name of the Court	CJJD & JMFC, Murtizapur
Date of Order & Judgment	17.09.2025
Order/Judgment Signed by the P.O. on	17.09.2025
Order/Judgment uploaded on	18.09.2025