

**IN THE COURT OF JUDICIAL MAGISTRATE NO.I, THANJAVUR**

**PRESENT: Tmt. S. Susila, B.A., B.L.,**

**Judicial Magistrate No.I, Thanjavur**

**Dated this is the 28<sup>th</sup> day of February 2025**

**Cr.M.P. No.259 of 2025 in CC No.316/2024**

Govi Chezhaan (58/2025)

S/o. Govindan

...Petitioner

/Vs/

State its Rep by

The Inspector of Police,

Pandhanallur Police Station,

Thanjavur District.

Cr. No.97/2018

.....Respondent

This application is filed the petitioner is at liberty U/Sec 228 of the BNSS. The petitioner/accused seeking seeking to dispense with his personal attendance by permitting him to represent him through his counsel, which came up before me for final hearing in the presence of S.Jayachandran, and Learned Assistance Public prosecutor Gr-II and after hearing both sides, this court pronounced the following...

**ORDER**

1) Petition averment in a nutshell:-

i) The petitioner is the Higher Education Minister of State of Tamil Nadu. The petitioner applied passport from the Passport Seva Kendra, Thanjavur through online. When his appointment before the passport authority was scrutinized, it came to understand that a criminal case in Crime No: 97/2018 was registered on the file of Pandhanallur Police Station dated 19.05.2018.

ii) The case was originally registered under Sections 153, 143, 188 and 505 (1) (b) IPC. Totally, 25 persons are arrayed as accused. The petitioner, being the MLA of Thiruvaidaimaruthur, who was arrayed as 10th accused, in the above case. The FIR was registered as against the operation of ONGC at Kahiramangalam. It is a political agitation The case was registered due to political vendata. Now the case was altered to Sections 143, 153, 153 (A) (1) (b), 153 (A) (1) (e), 153 (B), 188, 505(1) (b) IPC.

iii) An Official Memorandum was issued by the Ministry of External Affairs, PSP Division, Government of India dated 10.10.2019. According to the Official Memorandum, a Notification No: GSR 570 (E) dated 25.08.1993, was issued, regarding the issuance of passports to the applicants, who have criminal proceedings against them. As per the Office Memorandum, it is thereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them or pending before a Criminal Court in India and to produce orders from the "Courts concerned permitting him to depart from India" with some conditions and thereby,

iv) A criminal case filed before Pandhanallur Police was transferred to this Hon'ble Court, being the Special Court for MP, MLA cases. The case in Crime No: 97/2018 was taken in this court as C.C.No: 316/2024 and is pending before this Court. Now, the petitioner was appointed as a Minister of Higher Education of State of Tamil Nadu. He had applied for the issue of passport on 09.09.2024 and an interview was reported on 30.09.2024. Since, being the Minister, he has to go abroad at any point of time.

v) The petitioner herein moved a writ petition in WP (MD) No:148/2025 on the file of the Madurai Bench of Madras High Court to issue writ of Mandamus, to direct the 1st respondent to issue the passport Application Reference No: TR1076921070924 dated 09.09.2024 in favour of the petitioner. On 06.01.2025, the Hon'ble Justice Mrs. Victoria Gowri has passed an order, directing the petitioner to move before this Hon'ble Court for the grant of permission for the issue of passport to the petitioner by the 1st respondent. The petitioner is ready to abide any condition that may be imposed on him as per the Hon'ble High Court order.

vi) The Petitioner/accused is always engaged in official tour and duty. So he is unable to appear in person. Hence he is filing the petition to dispense with the personal attendance and permit him to appear by his advocate. It is therefore prayed that this Hon'ble Court may be pleased to allow this petition, dispense with the personal attendance of the petitioner and permit him to appear by his advocate.

## 2) **Counter of the respondent :**

The respondent stated that all averments in the Petition is hereby denied by this Respondent as false and the petitioner strictly liable to prove the same. It is further submits that the above said case, the Petitioner/10th Accused charged against under Section 143,153, 188, 505 (1) (b) of IPC. The allegation against the Petitioner on operation of ONGC Kahiramangalam. Now the case at was altered under section 143,153, 188, 505 (1) (b) of IPC and the same is taking before this Hon'ble

Court in the Trial stage. The Petitioner/10th Accused before the Hon'ble Court for the hearing posted for the case must be essential for the proper condition of the case. Hence at this stage the Petitioner/10th Accused filed this Petition with an ultra motive to drag on the Trial Proceeding and also to escape from the eye of law. Hence may be pleased to dismiss the petition.

3) Heard both sides and perused records and papers.

4) Now, the point for consideration is Whether this petition is to be allowed or not ?

5) The Petitioner along with this petition, has filed an order copy of the Honourable High Court WP(MD) No. 148 of 2025, wherein The Honourable High Court has held as,

The Petitioner is given liberty to move the Judicial Magistrate Court No.1, Thanjavur for the relief now sought for. As and when such miscellaneous petition is filed, it shall be numbered and disposed of within a period of three weeks thereafter. The learned trial Judge shall bear in mind that right to travel abroad is a fundamental right. The petitioner's career and avocation may be at stake if he is denied the right to go abroad. Therefore the trial court unless there are extraordinary circumstances shall not deny relief. Of course the period of validity of passport will have to be restricted. It is also open to the trial Judge to stipulate appropriate conditions to ensure that the prosecution is not stalled on account of the petitioner's absence from India. If necessary the applicant can be directed to file an application under Section 228 of BNSS 2024 by executing a special vakalat. Based on the order passed by the trial court, the petitioner shall move the jurisdictional regional passport officer who shall dispose of the petition mentioned application in terms of the said order.

The Sec 228 of BNSS 2024, 1973 contemplates that whenever a magistrate issues a summons, he may, if he sees reasons to do so, dispense with the personal attendance of the accused and permit him to appear by his advocate. It also contemplates that the magistrate may enforce such attendance at his discretion. The Hon'ble High has directed this court that unless extraordinary circumstances exist, this court shall not deny relief as the right to travel abroad is a fundamental right, and the

respondent has not shown any extraordinary circumstance. The case also doesn't involve any moral turpitude or very heinous one, and the political agitations alone matter for consideration. The petitioner has also filed another CrI.MP No 260/2025, u/s.22 of Passport Act read with Government Gazette notification G.S.R.570(E) dated 25.08.1993 seeking an order of no objection for going abroad for the purpose of the official duty and meet and the same will be decided separately.

6) In view of the above, this petition is allowed, and the personal presence of the petitioner is hereby dispensed with under the following terms:

a) The petitioner shall execute a special vakalat in favour of his counsel as provided in Rule No 27(11) Judicial Form No.73 of Criminal Rules of Practice 2019, and his counsel shall appear and represent in each hearing without fail.

b) The petition shall appear in person for when insisted for personal appearance by this court.

c) The petitioner shall file an undertaking affidavit to the effect that no prejudice would be caused to him, in any manner, by dispensing his personal presence and attendance and proceeding with the case in the presence of his counsel.

d) The validity and tenure of the passport to be issued shall be for one year, and in this regard, detailed orders will be passed in CrI.MP No.260/2025.

This order is dictated to the Steno-Typist and typed by him directly in the computer, corrected and pronounced by me in the open court on this 28<sup>th</sup> day of February 2025.

Judicial Magistrate No. I,  
Thanjavur.