

WP NO. 34952/2025 (GM - PASS)

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[MOHAMMAD SAMIULLA VS. STATE BY KTJ
NAGARA P.S. AND OTHERS]

18.03.2026

(VIDEO CONFERENCING / PHYSICAL HEARING)

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER ON 'FOR BEING SPOKEN TO'

This Court, by order dated 23.02.2026, has disposed of this petition with liberty to the petitioner to file an application in the pending criminal petition in CrI.P.No.366/2025 for leave to travel observing that if leave is granted in such proceedings, it would be open to the petitioner to file an application with the second respondent. In fact, this Court has directed the second respondent to examine the documents filed and issue *Short Validity Passport* to the petitioner at the earliest if he is permitted to travel on his application in the criminal petition in CrI.P.No.366/2025.

2. This petition is listed today on a Memo filed by Sri Muzaffar Ahmed, the learned counsel for the petitioner for liberty to approach the trial Court which is seized of the criminal proceedings in C.C. No.3952/2023. The learned counsel for the petitioner, Sri Aditya Singh, the learned Central Government Counsel and Smt Sukanya Baliga, the learned Additional Government Advocate, are heard on whether this Court must reserve liberty to the petitioner to make an application in the pending proceedings before the jurisdictional Magistrate in C.C. No.3952/2023 or in the pending criminal petition in CrI. P. No.366/2025.

3. The petitioner stands trial in C.C. No.3952/2023 with the charge sheet being filed by the jurisdictional Police, but the petitioner has invoked this Court's jurisdiction under Section 482 of the Criminal Procedure Code, 1973 [for short, '*the CrPC*'] in CrI. P. No.366/2025 for quashing of the entire proceedings in C.C. No.3952/2023. This

Court's order reserving liberty to the petitioner to file an application in CrI.P. No.366/2025 is in the light of the opinion that the Court exercising the jurisdiction under Section 482 of CrPC, because of the interim order of stay granted, is entirely seized of the matter and that whether the petitioner must be permitted to travel must be considered in the same proceedings, and the opinion in this regard is to ensure that there is no multiplicity of jurisdiction on the terms such as **[i]** whether there must be quashing and **[ii]** whether the petitioner must attend Court proceedings when there is stay of the trial and the exemption from appearance with permission to travel abroad.

4. Sri Aditya Singh invites this Court's attention to Section 6[2] of the Passports Act, 1967 [for short, '*the Act*'] and the Notification No.GSR 570[E] dated 25.08.1993 issued by the Central Government in exercise of the powers under Section 22[a] of the Act and submits as follows.

[a] An application for issuance of passport or travel documents may be refused under Section 5[2][c] of the Act for any of the reasons mentioned in Section 6[2] of the Act and when a criminal case is pending, the relevant provision would be Section 6[2][f] of the Act.

[b] The expression used in Section 6[2][f] of the Act is '*criminal court*' and this could indicate that the exemption must also be by the Criminal Court which is seized of the report filed on the commission of offence by a certain individual.

[c] The expression '*court concerned*' as found in the Notification must also be read accordingly.

5. Sri Muzaffar Ahmed takes cue from these submissions and canvasses that the appropriate

Court to permit travel would therefore be the learned Magistrate who is seized of the report. Smt Sukanya Baliga submits that this Court may consider that when a report is filed on the commission of offences, the concerned jurisdictional Magistrate is seized of the matter but when the entire proceedings is called in question under Section 482 of CrPC even before the commencement of trial, the gamut of report is brought before this Court and when the entire gamut is thus brought before this Court and there is stay of all further proceedings before the jurisdictional Courts, such Courts will generally not interfere unless there are specific orders by this Court which has exercised the jurisdiction under Section 482 of CrPC to stay the proceedings. The petitioner's request for change is considered even in the light of these circumstances.

6. The question whether this Court must reserve liberty to the petitioner to make an application in the pending proceedings before the

jurisdictional Magistrate in C.C. No.3952/2023 is examined in the backdrop of Section 6 of the Act and the terms of the Notification dated 25.08.1993. The Section 6 of the Act reads as under.

“6. Refusal of passports, travel documents. etc. (1) Subject to the other provisions of this Act, the passport authority shall refuse to make an endorsement for visiting any foreign country under clause (b) or clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and no other ground, namely: -

- (a) that the applicant may, or is likely to, engage in such country in activities prejudicial to the sovereignty and integrity of India,*
- (b) that the presence of the applicant in such country may, or is likely to, be detrimental to the security of India;*
- (c) that the presence of the applicant in such country may, or is likely to, prejudice the friendly relations of India with that or any other country,*
- (d) that in the opinion of the Central Government the presence of the applicant in such country is not in the public interest.*

(2) Subject to the other provisions of this Act, the passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 on any one or more of the following grounds, and on no other ground, namely: -

- (a) that the applicant is not a citizen of India,*
- (b) that the applicant may, or is likely to, engage outside India in activities prejudicial to the sovereignty and integrity of India,*
- (c) that the departure of the applicant from India may, or is likely to, be detrimental to the security of India,*
- (d) that the presence of the applicant outside India may, or is likely to, prejudice the friendly relations of India with any foreign country,*
- (e) that the applicant has, at any time during the period of five years immediately preceding the date of his application, been convicted by a court in India for any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than two years,*
- (f) that proceedings in respect of an offence alleged to have been*

committed by the applicant are pending before a criminal court in India¹,

- (g) that a warrant or summons for the appearance, or a warrant for the arrest, of the applicant has been issued by a court under any law for the time being in force or that an order prohibiting the departure from India of the applicant has been made by any such court,
- (h) that the applicant has been repatriated and has not reimbursed the expenditure incurred in connection with such repatriation,
- (i) that in the opinion of the Central Government the issue of a passport or travel document to the applicant will not be in the public interest.”

7. The terms of the Notification dated 25.08.1993 in its material part reads as under:

"GSR 570[E] - In exercise of the powers conferred by clause [a] of Section 22 of the Passports Act, 1967 [15 of 1967] and in supersession of the notification of the Government of India in the Ministry of External Affairs No.GSR 298[E] dated the 14th April, 1976, the

¹ The underlining is by this Court

Central Government, being of the opinion that it is necessary in public interest to do so, hereby exempts citizens of India against whom proceedings in respect of an offence alleged to have been committed by them are pending before a criminal court in India and who produce orders from the court concerned permitting them to depart from India², from the operation of the provisions of Clause [f] of sub-section [2] of Section 6 of the said Act xxxxxx."

8. This Court must observe that the use of the expression '*criminal court*' [*and court concerned*] in the Act and in the Notification is contextual. The Act and the Notification do not contemplate a higher Court being seized of the matter either in appeal or in exercise of inherent jurisdiction under Section 482 of CrPC. Therefore, the expression '*criminal court*' [*and court concerned*] in the Act and the Notification must necessarily be considered contextually. When the

² The underlining is by this Court

High Court's inherent jurisdiction under Section 482 of CrPC is invoked and it has granted stay of trial, it cannot be gainsaid that the entire controversy is brought before this Court and this Court is seized of the matter. Consequentially, all aspects including whether the stay of the proceedings before the jurisdictional Magistrate must be absolute and whether the concerned must appear on regular dates before the jurisdictional Magistrate or even be permitted to travel are all matters that must be considered by this Court in such proceedings.

9. This Court is of the considered view that if the concerned is permitted to make an application with the jurisdictional Magistrate that would result in the learned Magistrate exercising jurisdiction without all materials even being placed before this Court. Further, when a concerned, in the circumstances such as the present case, files a petition under Article 226 of the Constitution of India or an application in the pending proceedings before the jurisdictional

Magistrate, the decision to reserve liberty to file an application in the proceedings under the inherent jurisdiction is applying the principle in *forum non conveniens* to ensure the salient that there is neither *multiplicity of forums* nor *forum shopping*. Therefore, this Court re-affirms that the liberty must be to file an application in the pending proceedings in Crl. P. No.366/2025.

(B M SHYAM PRASAD)
JUDGE

AN/-
List No.: 1 Sl No.: 7