



2024:KER:57243

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

MONDAY, THE 29<sup>TH</sup> DAY OF JULY 2024 / 7TH SRAVANA, 1946

CRL.MC NO. 5782 OF 2024

CRIME NO.867/2013 OF CANTONMENT POLICE STATION,  
THIRUVANANTHAPURAM

AGAINST THE ORDER IN CMP NO.2752 OF 2023 OF JUDICIAL  
MAGISTRATE OF FIRST CLASS -III, THIRUVANANTHAPURAM

**PETITIONER/2ND ACCUSED:**

A.A RAHIM  
AGED 42 YEARS  
S/O ABDUL SAMAD, SHEEJA MANZIL, THYKKADU,  
PIRAPPANKODU P.O, PIN - 695607

BY ADVS.  
S.K.ADHITHYAN  
REUBEN CHARLY  
SHAHINA NOUSHAD

**RESPONDENTS/STATE & COMPLAINANT:**

- 1 THE STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT  
OF KERALA, ERNAKULAM, KOCHI-, PIN - 682031
- 2 THE STATION HOUSE OFFICER,  
MUSEUM POLICE STATION, THIRUVANANTHAPURAM  
DISTRICT, PIN - 695033
- 3 THE REGIONAL PASSPORT OFFICER  
THE REGIONAL PASSPORT OFFICE,  
THIRUVANANTHAPURAM, PIN - 695024

SR. PUBLIC PROSECUTOR SMT. SEETHA S.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
29.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



**Dated this the 29<sup>th</sup> day of July, 2024.**

**ORDER**

The petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, BNSS), to modify Annexure A1 order passed by the Court of the Judicial First Class Magistrate-III, Thiruvananthapuram (Trial Court) by permitting the petitioner to hold a diplomatic passport till 31.3.2028, despite the pendency of C.C. No.132/2018.

2. The petitioner has stated in the petition that, he is a Member of Parliament in the Rajya Sabha since April, 2022 and a Member of the Parliamentary Standing Committee on Transport, Tourism and Culture. The petitioner is the holder of Indian Passport bearing No. N8196243. The petitioner is the 4<sup>th</sup> accused in Crime No.867/2018 of the Cantonment Police Station, which is now pending on the files of the trial court as C.C.



No.132/2018. The petitioner had approached the Trial Court, for permission to travel abroad in discharge of his official duties as a Member of the Parliamentary Standing Committee. But, by Annexure A1 order, the Trial Court has permitted the petitioner to hold a diplomatic passport having validity of only two years. As the petitioner's tenure is for six years, that is till 31.3.2028, he is entitled to hold a diplomatic passport at least for the rest of his tenure. The two year time period fixed by the Trial Court is illogical and unreasonable, and has put the petitioner to severe hardship. The present crime is a politically motivated crime to tarnish the petitioner's political career. The petitioner's fundamental right to travel outside India stands infringed due to impugned order. The petitioner is a law abiding citizen and is prepared to abide by any stringent condition that may be imposed by this Court. Hence, Annexure A1 order, to the extent fixing the validity of the petitioner's diplomatic passport for two years, is



erroneous and is liable to be set aside. Hence, the petition.

3. Heard; Sri S.K. Adhithyan, the learned counsel appearing for the petitioner and Sri T.C. Krishna, the Deputy Solicitor General in charge.

4. The petitioner is the holder of Indian Passport bearing No. N8196243, which was issued on 31.3.2016 and it is valid till 30.3.2026. The petitioner is a Member of Parliament and is also a Member of Parliamentary Standing Committee on Transport, Tourism and Culture his tenure is till 31.3.2028. The petitioner claims that he has to travel widely across the world in discharge of his official functions. As the petitioner is a Member of Parliament, he is also entitled to hold a diplomatic passport having a validity of five years. Even though the petitioner applied to the Trial Court for permission to go abroad with a diplomatic passport, the Trial Court has only permitted the petitioner to hold a diplomatic passport for a period of two years. The above facts are



not disputed by the respondents.

5. On an overall consideration of the facts and the materials placed on record, particularly on considering the admitted fact that the petitioner is a Member of Parliament, who has a tenure till 31.03.2028 and he is entitled to a diplomatic passport, I don't find any justifiable reason or ground to limit the validity of the petitioner's passport for a period of two years. Thus, I am convinced that the time period of two years fixed by Trial Court is unreasonable and unjustifiable. Consequently, I hold that the petitioner is entitled to hold a diplomatic passport till 31.03.2028, during the remaining term of his office as a Member of Parliament, subject to the condition that the petitioner surrenders his ordinary passport and then applies for a diplomatic passport and also he files an undertaking before the Trial Court that he would appear before the Trial Court in the above case, as and when directed.



In the result,

(i) The Crl.M.C. is allowed.

(ii) Annexure A1 order is modified to the limited extent by permitting the petitioner to hold a diplomatic passport till 31.03.2028, subject to the condition that (a) the petitioner surrenders his ordinary passport bearing No. N8196243 before the passport authority before making an application for diplomatic passport and (b) the petitioner files an undertaking before the Trial Court that he would appear in C.C. No.132/2018 as and when directed.

SD/-

**C.S.DIAS,JUDGE**

rmm29/7//2024



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**Crl.M.C No.5782 of 2024**

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**APPENDIX**

**PETITIONER ANNEXURES**

**ANNEXURE A1**

**A TRUE COPY OF THE ORDER IN CMP 2752/23  
IN CC 132/2018 BEFORE THE JUDICIAL FIRST  
CLASS MAGISTRATE COURT - III  
THIRUVANANTHAPURAM DATED 24/04/2023**