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Crl. O.P. No. 11129 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2026

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl. O.P. No. 11129 of 2026

Ameer Jawahar Alikhan

... Petitioner

Vs.

The State Represented by its
The Inspector of Police,
Central Crime Branch,
Team-IV, EDF-II,
Veperty, Chennai – 600 007.

... Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records pertaining to order dated 15.04.2026 passed in Crl.M.P.No.3395 of 2026 in C.C.No.6838 of 2023 pending on the file of XXVIII Metropolitan Magistrate Court for Exclusive Trial of CCB (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai – 600 008 and to set aside the same and consequently permitting the petitioner to travel to Malaysia for his employment purpose.

For Petitioner : Mr. L. Gavaskar

For Respondent : Mr. Leonard Arul Joseph Selvam,
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to call for the records pertaining to the order dated 15.04.2026 passed in Crl.M.P.No.3395 of 2026 in C.C.No.6838 of 2023, pending on the file of the XXVIII Metropolitan Magistrate Court for Exclusive Trial of CCB (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai – 600 008 and to set aside the same and consequently permit the petitioner to travel to Malaysia for employment purpose.

2. The petitioner / A3 in C.C.No.6838 of 2023, facing trial for offences under Sections 406 and 420 IPC r/w Section 34 IPC, has filed the present petition seeking permission to travel abroad, namely to Restoran Ramzan Maju, situated in Malaysia, to continue his employment as a restaurant crew. The trial Court, by order dated 15.04.2026 in Crl.M.P.No.3395 of 2026, dismissed the said petition, against which the present petition has been filed.

3. The contention of the petitioner is that a case in Crime No.121 of 2022 was registered on 16.06.2022 against the petitioner and other persons,

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namely one Mohammed Usama and Liyakath Ali Khan, who are arrayed as A1 and A2 respectively, while the petitioner is arrayed as A3. The 2nd accused / Liyakath Ali Khan has died. It is further stated that a Lookout circular was issued against the petitioner and he was arrested on his arrival on 27.11.2024. Thereafter, the non-bailable warrant issued against him was recalled. The petitioner appeared before the trial Court on 28.11.2024, executed two sureties and surrendered his passport bearing No.W9443609.

3.1. Subsequently, the petitioner filed a petition seeking return of his passport, which was dismissed. Challenging the same, the petitioner filed a revision in Crl.R.C.No.500 of 2025 and the High Court, by order dated 13.02.2025, set aside the earlier order and directed the return of the passport to the petitioner.

3.2. Further, the petitioner filed W.P. No. 43521 of 2025 against the Regional Passport Authorities, seeking direction to pass final orders on the show cause notice dated 23.06.2025. The writ petition was allowed, setting aside the show cause notice and directing the petitioner to obtain necessary permission from the Court if the need to travel abroad arises. Hence, the present petition has been filed seeking such permission.



4. The learned counsel for the petitioner submitted that the petitioner is the sole breadwinner of his family and that unless he returns to Malaysia and resumes his employment, he would be unable to sustain himself and his family, who would otherwise suffer hardship.

5. The learned Additional Public Prosecutor for the respondent strongly opposed the petitioner's contention stating that A2 is the brother-in-law of the petitioner and that both of them, along with A1, had received money from the defacto complainant and subsequently cheated him. It is further contended that the petitioner had earlier undertaken to settle the matter and repay the misappropriated amount but failed to do so. The present petition has been filed seeking permission to go abroad.

5.1. It is also submitted that the case is posted for examination of LW1 to LW5 on 19.05.2026, that there are totally 23 witnesses and that the trial can be completed within a period of six months.

6. Considering the submissions and upon perusal of the materials available on record, it is seen that at present there is no regular Presiding Officer in the XXVIII Metropolitan Magistrate Court and that the in-charge



Magistrate is conducting the proceedings. It is also seen that the petitioner had produced a work permit issued by the Malaysian immigration authorities.

7. The Hon'ble Apex Court in the case of *Maneka Gandhi v. Union of India*, has held that the right to travel abroad is a fundamental right and a person facing a criminal case cannot be denied such right. However, appropriate conditions may be imposed to ensure that the trial is neither delayed nor hindered due to the absence of the petitioner.

8. In view of the above, the impugned order passed in Crl.M.P.No.3395 of 2026 is set aside, subject to the following conditions:

(i) The petitioner shall file an affidavit before the trial Court undertaking that his absence will not delay the trial proceedings and shall furnish a surety, preferably a blood relative, to the satisfaction of the trial Court. Execute Bond for Rs.50,000/-.

(ii) The petitioner shall furnish his complete address of stay in Malaysia, along with his email ID, mobile number and other contact details.



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(iii) The petitioner shall ensure that his absence does not cause any delay in the trial and shall co-operate with the proceedings. In the event of examination of witnesses, the petitioner shall cross-examine them on the same day, without seeking unnecessary adjournments.

(iv) The petitioner shall appear before the trial Court as and when directed.

Subject to the above conditions, the petitioner is permitted to travel to Malaysia for employment purpose.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

29.04.2026

Neutral Citation: Yes/No

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To

1.The XXVIII Metropolitan Magistrate Court for Exclusive Trial of CCB (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai – 600 008

2.The Inspector of Police,
Central Crime Branch, Team-IV, EDF-II,
Veparty, Chennai – 600 007.

3.The Public Prosecutor,
High Court of Madras.

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M.NIRMAL KUMAR, J.

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