

IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS, THIRUVALLA

Present: Smt. Arundhathi Dileep, Judicial Magistrate of the First Class.

Saturday the 21st day of February, 2026/ 02nd day of Phalgun 1947 S.E.

Crl.M.P 05/2026

in

State Crime Branch P.S Crime No. 100/C.B/KLM/and PTA -D/26.

Petitioner	:	State represented by Deputy Police Superintendent, Special Investigation Team, State Crime Branch, Thiruvananthapuram. (Smt. Devi M G, Assistant Public Prosecutor, Grade – I, Thiruvalla)
Accused	:	Rahul Mamkootathil, Aged 36 S/o Rajendra Kurup Attuvilakath House, Mundapalli, Parakkoottam, Pathanamthitta, Kerala. (By Adv. Abhilash Chandran)
Order	:	Petition is allowed.

ORDER

1. This is a petition filed by the prosecution for a direction to the accused to furnish the passwords of the mobile phones recovered from him.
2. It is the case of the prosecution that at the time of arrest of the accused, two mobile phones were seized from his custody. When the said mobile phones were

send to the forensic lab for examination, the Director of the forensic science lab had filed a report stating that both the mobile phones were secured with user - defined passcodes and hence the user data remains cryptographically protected and is technically inaccessible. Hence the petition.

3. The accused had filed objection stating that a direction to disclose pass codes of his mobile violates Article 20(3) of the Constitution as well as his fundamental right to privacy as laid down by the Hon'ble Supreme Court in Puttaswamy v. Union of India. The attempt of the prosecution is to obtain his digital history for political purposes. The accused is ready to provide his passcodes if the device is to be opened in his presence and he shall also be permitted to secure his device with passcodes after the examination.
4. Heard both sides. Perused the records.
5. The first and foremost question to be considered in the instant case is whether a direction can be given to the accused to furnish his passcodes/passwords and whether it will be violative of Article 20(3) of the Constitution as well as the right to privacy of the accused?
6. The Hon'ble Karnataka High Court, in *Virendra Khanna v. State of Karnataka by Banasawadi Police*, Anr, 2021 KHC 7136, had held that “*the Investigating Officer, during the course of an investigation, could always issue any direction and/or make a request to the accused or other persons connected with the matter to furnish information, to provide material objects or the like. These directions are routine in any investigation. Thus, during the course of the investigation, the Investigating Officer could always request and/or direct the accused to furnish the password, passcode or Biometrics,*

enabling the opening of the smartphone and/or email account. It is up to the accused to accede to the said request and or directions. If the accused were to provide such a password, passcode or Biometrics, the Investigating Officer could make use of the same and gain an access to the same". The Hon'ble Court while considering the question as to whether providing a password, pass code or Biometrics amount to self-incrimination or testimonial compulsion had held that, *"As regards the contention that providing of the password/pass code will amount to testimonial compulsion, I am of the considered opinion that there is no testimony which is given by the accused by providing the said password, passcode or biometrics by which the document is being accessed by the Investigating officer. The XI Judge Bench of the Apex Court in Kathi Kalu Oghad's case has categorically held that providing of a thumb impression or impression of the palm or foot or fingers or specimen in writing or exposing a part of the body of an accused person for the purpose of identification would not amount to testimonial compulsion. Mere providing of an access of to smartphone or e-mail account would not amount to being a witness, the information that is accessed by the Investigating officer on the smartphone and or the e-mail account being only access to the data and/or documents, it is for the Investigating officer to prove and establish the same in a Court of Law by following the applicable Rules of evidence. Merely because any document is present or available on the smartphone and or the email account would not by itself establish the guilt or innocence of an accused. Both the prosecution, as also the accused/defence would be required to prove the said document or data by other evidence also".*

7. Also, the Hon'ble High Court of Kerala in *Riyas v. Union of India, 2024 KHC 7282*, following the decision in *Virendra Khanna* case had held that; *"the Investigating Officer, during the course of an investigation, could always*

issue any direction and/or make a request to the accused to furnish information and in such manner, can direct the accused to furnish the password, passcode or biometrics to facilitate the opening of the smartphone or the email account. It would be open to the accused to accede to the said request. If he refuses, appropriate steps in accordance with law will have to be initiated. If the accused willingly provides such a password, pass code, or biometrics, it would be open to the Investigating Officer to utilize the same and gain access to the account. The Investigating Officer, however, is required to follow a transparent procedure while carrying out the extraction with the assistance of an expert. The data so gathered would have to be treated like any other document and/or object secured during the course of the investigation. The data gathered will have to be proven during the course of the trial, in" accordance with law".

8. It is the case of the prosecution that passcodes of the mobile phones of the accused are necessary for extracting the suspected messages and call records between the accused and the victim. On perusal of the records, I am of the considered view that once the passcodes are made available, the prosecution may recover the aforesaid call records and messages that will shed light for the ongoing investigation. Hence for a just and fair investigation passcodes of the mobile phones seized from the accused are necessary. Hence, the petition is allowed. The accused is directed to provide passcodes for the mobile phones seized by the investigating officer.

Dictated to the Confidential Asst., typed by her, corrected and pronounced by me in open Court on this the 21st day of February, 2026.

// True copy //

*Judicial Magistrate of the First Class,
Thiruvalla.*