

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE
AMBALAPUZHA**

Present : Aiswarya Ann Jacob

Judicial Magistrate of First Class

Dated this, the 16th day of August, 2025

C. M. P. No.1786/2025 in C. C. No.389/2023

(Crime No.08/2023 of Edathua Police Station)

Petitioner/Accused no.5 : Antony Francis aged 69, S/o Francis,
Kattappuram Veedu, Pandankary P.O.,
Edathua Village, Edathua Panchayath
Ward No.9, Kuttanadu Taluk, Alappuzha

Rep. by Adv. O. Salim

Respondent : State represented by the Sub Inspector of
Police, Edathua Police Station

Rep. by A.P.P., Ambalapuzha

This petition having been heard on 13.08.2025 and the Court on 16.08.2025 passed the following :

ORDER

1. This is an application filed by the petitioner filed u/s.228 of Bharatiya Nagarik Suraksha Sanhita, 2023, who is the 5th accused seeking for an exemption from appearing before the court.
2. The offences alleged against the accused is punishable under Sections 447, 427 r/w S.34 of Indian Penal Code.

3. It is submitted by the learned counsel for the petitioner that the petitioner has to go to Australia in connection with the treatment of his wife. The petitioner has also submitted copy of his Passport to substantiate this fact. It is submitted that his due representation throughout the case will be ensured by the counsel engaged by him and that the petitioner will not dispute his identity during the trial and undertakes to appear before the court as and when required. Hence in the aforesaid circumstances it is prayed that the personal appearance of the petitioner may be exempted and to permit him to conduct the case through his counsel.
4. Investigating officer filed report stating that, the grant of such exemption would invite the possibilities of accused absconding and thereby protracting the trial of the case.
5. Heard both sides. Perused the records.
6. On perusal of records it is seen that the case now stands posted for the examination of witnesses. It is well settled that the grant of exemption is the discretion of court. A mere pendency of a criminal case by itself is not a ground to deny the right of the petitioner to accompany his wife for the treatment abroad. The need expressed by the petitioner appears to be relevant. It is also seen that the petitioner is on bail and has submitted bail bond with sufficient sureties to the satisfaction of the court. The petitioner and sureties also have a fixed place of abode. The only aspect that requires to be ensured here is that the petitioner does not dispute his identity as the trial may have to be proceeded in his absence.
7. Therefore, considering the reasons in the petition, this court is of the view that petitioner can be exempted from appearing before this court for a period of one year subject to the following conditions :
 - i. The petitioner is exempted from personal appearance for a period of one year from the date of this order.

- ii. The petitioner shall appear before this court as and when required by this court.
- iii. The petitioner shall file an affidavit within one week that he shall not abscond and shall be available as and when required.
- iv. The petitioner shall undertake that he has no objection to proceed with the trial of the case in his absence by considering the presence of the counsel engaged by him as his presence in compliance with the S.355 of Bharatiya Nagarik Suraksha Sanhita.
- v. The petitioner shall file an affidavit within one week to the effect that he will not dispute his identity and that he will always be represented by his counsel.
- vi. The petitioner shall produce photocopies of passport and visa duly attested by himself and one witness within one week from the date of receipt of the same.
- vii. On failure to comply with any of the condition the exemption which is granted stands automatically cancelled.

(Dictated to the Confidential Assistant, typewritten by her, corrected and pronounced by me in open court, on this 16th day of August, 2025.)

Judicial Magistrate of First Class
Ambalapuzha