

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE- II,
MAVELIKARA**

**Present: Sri. Anandhu.J.B, Judicial First Class Magistrate-II.
Dated this the 5th day of August, 2025**

CMP No.1649/2025 in CC.180/2025

Petitioner/ accused : A2. Arjun.R, S/o Rajesh, Assarisseril,
Njakkanal P.O, Oachira.
(By Adv.Prathap.G.Padickal)

Counter Petitioner : State represented by the S.I of Police,
Nooranad in Cr.1108/2023
(By A.P.P., JFCM Court-II, Mavelikara)

Section of law : U/s. 228 of BNSS.

This petition coming on this day for consideration, the court passed the following:-

ORDER

1. Petition filed by the 2nd accused in the above case u/s 228 of BNSS. He is charged with offences punishable u/ss.143, 147, 148, 149, 323, 341, 324, 294(b), 326, 506(ii) and 201 of IPC and 4 r/w 3,7 of Kerala Prohibition of Ragging Act, 1998 in Crime No.1108/2023 of Nooranad police station.
2. **The averments of the petitioner are as follows:** The case of the petitioner is that he is the 2nd accused in this case and he was granted bail. Petitioner submitted that he got job as Junior Engineer in a company named Manarah Al-Jubail Cont Co.Ltd. in Saudi Arabia. Hence, petitioner could not attend the court on regular posting days of this case. He further states that he will not dispute his identity before the Court and he is ready to appear before the

court as and when called for. He seeks to be permitted to be represented by his counsel in his absence. Therefore, he seeks exemption from personal appearance before the court. Petitioner produced Job offer letter dated 02.06.2025 before this court.

3. Copy Served to the learned Asst. Public Prosecutor.
4. The SHO, Nooranad filed a report opposing the application stating that WPC15346/24 is pending before the Hon'ble High Court of Kerala in connection with this case. It is further stated that if this petition is allowed, all other 12 accused would come with similar petition and it would delay the trial. The SHO, Nooranad seeks to dismiss the petition.
5. Heard both sides and perused the records.
6. Petitioner is the 2nd accused in the case. He seeks to exempt him from regular appearance, since he got job at Saudi Arabia. The allegations levelled against the petitioner are u/ss.143, 147, 148, 149, 323, 341, 324, 294(b), 326, 506(ii) and 201 of IPC and 4 r/w 3,7 of Kerala Prohibition of Ragging Act, 1998. The prosecution has opposed the petition stating that there exists a public interest litigation before the Hon'ble High Court, with respect to this case. Even though the petitioner herein is a party in the writ petition it is not a reason to exempt the petitioner in this case before this court.
7. This case is of the year 2025. Now, the charge is framed, read over and explained to the petitioner. The trial will not conclude in near

future. From the affidavit, it is satisfied that if the petitioner is not exempted, it will cause great prejudice to him. The petitioner also undertakes that he will not dispute his identity in trial. Considering the petition and hearing the parties, I am of the opinion that if he is not exempted, it would cause hardship to him, especially to go abroad for a job for his livelihood. The apprehensions raised by the prosecution are not sufficient to disallow the petition. Hon'ble Apex Court in **Bhaskar Industries Ltd. v. Bhiwani Denim And Apparels Ltd.[2001 KHC 714]** has held as follows;

19 The position, therefore, bogs down to this: It is within the powers of a Magistrate and in his judicial discretion to dispense with the personal appearance of an accused either throughout or at any particular stage of such proceedings in a summons case, if the Magistrate finds that insistence of his personal presence would itself inflict enormous suffering or tribulations to him, and the comparative advantage would be less. Such discretion need be exercised only in rare instances where due to the far distance at which the accused resides or carries on business or on account of any physical or other good reasons the Magistrate feels that dispensing with the personal attendance of the accused would only be in the interests of justice. However, the Magistrate who grants such benefit to the accused must take the precautions enumerated above, as a matter of course. We may reiterate that when an

accused makes an application to a Magistrate through his duly authorised Counsel praying for affording the benefit of his personal presence being dispensed with the Magistrate can consider all aspects and pass appropriate orders thereon before proceeding further.

8. Hence, considering the above dictum and the interest of justice, I am of the view that this petition can be allowed.

9. In the result, petition is allowed as follows:-

- a. The petitioner is exempted from personal appearance for a period of one year.
- b. The petitioner shall file an affidavit stating that he will not take a plea that the evidence is recorded in his absence.
- c. The petitioner shall file an affidavit stating that he will not dispute his identity even when the evidence is recorded in his absence.
- d. He shall furnish his address in which he working abroad.
- e. The petitioner shall be represented by his counsel during the trial in his absence.
- f. The petitioner shall appear before the court as and when directed.

(Dictated to the Confidential Assistant, data entered by her, corrected and pronounced by me in open court on this the 5th day of August, 2025)

sd/-

Judicial First Class Magistrate-II,
Mavelikara.