

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

Present: Smt. Anju Cletus., Judicial Magistrate of First Class

Dated this the 08th day of July, 2025

CMP. No. 1517/2025 IN CC 376/2023

Petitioner/ Accused : Bincy Xavier, 55 years, W/o Xavier,
Poomarathil House, T.C.C Colony,
Udyogamandal, Eloor, Ernakulam Now
residing at Yakshiparambu, Near Muthukadu
Temple, Muppathadam, Kadungalloor,
Ernakulam
(By Adv. E.K.Mahesh)

Respondent : State represented by the Sub Inspector of
Police, Binanipuram Police Station in Cr.No.
137/23
(By APP, JFCM-II, Aluva)

The CMP coming today for a hearing, the court passed the following:

ORDER

This petition is filed by the petitioner/accused u/s.228 of BNSS, 2023 to exempt her permanently from appearing personally before this court and allow her to appear through her counsel.

2. The petition averments in brief are as follows:

The petitioner is the accused No.2 in the above case. She has allegedly committed offence punishable u/s. 498-A of IPC. The petitioner had been working as a nurse in Italy and she needs to go abroad for work. She has engaged a counsel for conducting this case on her behalf. As the petitioner is working abroad she is not in a position to appear before this court on all posting days. She is ready to appear before the court as and when directed by this court. She is not disputing her identity in the proceedings before this court. She may be permitted attend 313 examination through her counsel. Hence this petition.

3. Copy was served to the respondent. The respondent filed objection to the effect that granting permission to the petitioner to go abroad may affect the smooth conduct of the trial.

4. Heard the matter and perused the materials on record. The petitioner seeks permission to exempt her from personal appearance as she is working abroad. The present case is of the year 2023. Charge has been framed against the petitioner and the trial has commenced. The petitioner undertakes to co-operate with the case proceedings and appear before the court as and when directed by the court. The petitioner has filed affidavit stating that she would not dispute the proceedings held in her absence. This court considers that disallowing this petition would cause serious prejudice to the petitioner. Hence this court is of the view that the petitioner's prayer shall be considered favourably.

In the result, this petition is allowed as follows: The petitioner/accused no.4 in CC 376/2025 is exempted from personally appearing before this court subject to the following conditions.

1. The petitioner shall be represented by his counsel on all posting days of the case before this court.
2. The petitioner shall be personally present before the court whenever her personal appearance is insisted by the court.

Pronounced by me in Open Court this the 8th day of July 2025

Judicial Magistrate of First Class-II, Aluva