

IN THE COURT OF SESSIONS, KOZHIKODE DIVISION

Present:- Sri. Jennis Stephen, Addl. Sessions Judge-V

Monday the 18th day of May 2026/ 28th day of Vaisakham 1948

**Common order in
Crl.MP No. 03/2026 and Crl.MP No. 04/2026
in
SC 1153/2021**

Between:-

Ihjas Muchilott, S/o Ebrahim, 37 years,	}	<u>Petitioner/Petitioner</u>
Muchilott House,	}	<u>No.5</u>
Cherapuram P.O,Vadakara Taluk,	}	
Kozhikode District,Kerala	}	

And:-

1 State represented by the Sub Inspector of	}	<u>Respondents/</u>
Police Kuttiyadi Police Station	}	<u>Complainant</u>
	}	
	}	

This petition filed by Petitioner under section 228(205 Crpc) of BNSS

This petition coming on this day for orders before me in the presence of Sri.Fareed Kalleri advocate for the petitioner and Smt.Sreeja.M.P., Addl.Public Prosecutor for Respondent and the Court passed the following.

ORDER

These petitions are filed by the petitioner/accused seeking exemption from personal appearance on every hearing date before the court and also for granting permission to go abroad to join a job.

2. The petitioner is the 5th accused in SC 1153 of 2021, Cr.No.61/2016 of Kuttiady Police Station, registered under Sections 143, 147, 148, 324 r/w 149 of Indian Penal Code and Sections 3 and 5 of Explosive Substances Act.

3. The contentions raised by the petitioner in brief are as follows:-
Petitioner is the 5th accused in SC 1153 of 2021 pending before this Court, and he is on bail. It is contended that the petitioner was working abroad for the last few years and now he has got a job opportunity in the UAE, and he wants to go abroad in connection with his job. He also contended that his entire family depends on him for their livelihood and that the job is essential for him. If he does not go to the UAE to join his job, he will lose his job and income. Petitioner has undertaken that he has entrusted his counsel holding vakalat for him to appear, for and on behalf of him, on all posting dates and in all the proceedings before court. He has entrusted his counsel to answer the examination under section 313 Cr.P.C. The Petitioner has also undertaken that he will not dispute his identity and will be present before the court in person as and when required by the court. Hence, he prayed for exemption from the personal appearance on every hearing date before the court and also permission to go abroad for a period of three years for the purpose of joining his job.

4. The application has been seriously opposed by the investigating officer by filing a report. It is stated that if an exemption is granted to the petitioner from personal appearance and permits him to go abroad, he is likely to

flee from justice and it will be difficult to bring back the petitioner to face trial in this case. Therefore, it was prayed that these applications be dismissed.

5. Heard counsel appearing for the petitioner and the Additional Public Prosecutor.

6. The petitioner states that he wants to join a job in the UAE. On going through the records, it is seen that the Sessions Case of the year 2021. The Hon'ble High Court of Kerala has held that the pendency of a criminal proceeding is not a bar for obtaining a passport or for travelling abroad. The right to travel abroad has been held to be a fundamental right under the Constitution of India. However, the only requirement in such cases is that the Court where the criminal proceeding is pending, must grant permission for the period of such travel or the period for which the passport can be issued. In **Thadevoos Sebastian v. Regional Passport Office reported in 2021(5)KHC 625**, the Hon'ble High Court of Kerala held that the accused can be permitted to go abroad subject to various conditions.

7. The petitioner is on bail. The Investigating Officer does not have a case that he has violated any of the bail conditions. The permission sought for is to travel abroad for his job. The charge has already been framed against the petitioner. Not granting exemption from appearance and permission and to travel abroad is likely to affect his job. Considering the principles laid down in **Thadevoos Sebastian v. Regional Passport Office reported in 2021(5)KHC 625**, I am of the opinion that he can be granted exemption from appearance and he can also be given permission to go abroad for a period of one year from today. In **Moosa**

Pattupura v. State of Kerala reported in **2022(2)KHC 293** it was held by the Hon'ble High Court that the principles laid down in **Bhaskar Industries Limited v. Bhiwani Denim and Apparels Limited AIR 2001 SC 3625**, for granting exemption from personal appearance of the accused can be applied to appropriate sessions cases as well. I am of the opinion that the present case is one such case where the principles can be applied. However, the apprehension of the Investigation officer can not be said to be unfounded. Therefore, strict conditions are to be imposed for granting permission from the personal appearance.

8. Considering the facts and circumstances as above, the appearance of the petitioner can be exempted till the stage of taking a statement under Section 313 of the Code or for a period of 1 year from today, whichever comes earlier. The petitioner can take necessary steps in accordance with law, at that stage, if found necessary.

In the result, the petitions are allowed, and the petitioner is exempted from appearing before the court and permission is granted to him to travel abroad till the stage of taking statement under Section 313 of the Code, or for a period of 1 year from today, whichever comes earlier, subject to the following conditions:

1. The petitioner is granted permission to leave India for a period one year from today to join his job.
2. The petitioner shall execute an additional bond for ₹50,000/- (Rupees Fifty Thousand only) with two new solvent sureties before this court.

3. The petitioner shall not be entitled to dispute his identity in the above case.
4. The petitioner shall not raise any objection to taking evidence in his absence.
5. The petitioner's counsel shall be present when the case is called.
6. The petitioner shall comply with all other conditions in the bail order.

(Dictated to the Confidential Assist. transcribed by her, corrected and pronounced by me in open Court on this the 18th day of May, 2026).

Sd/-

Addl.District and Sessions Judge – V

Copy to:

- 1.The SHO Kuttiyadi Police Station,
- 2.The Public Prosecutor.