

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST
CLASS-I, KOTTARAKKARA.**

Present :- Sri. Arjun Raj. E. R., Judicial 1st Class Magistrate.

Dated, this the 6th day of November, 2025

Crl. M. P. No.2775/2025 in CC 937/2016

Petitioner/ 3rd Accused : Reena, aged 32 years, W/o Aju John,
Vallivila Thekkathil Veedu,
Thrippilazhikom Muri, Kareepra Village,
Kottarakkara Taluk.
(By Adv. A. Najeebdeen)

Respondent/complainant : Shibu Varghese, S/o Kochumman,
Sanadu, Chekkalamukku,
Thrippilazhikom Muri, Kareepra Village.
(By Adv. Tom Jacob)

Heard, perused the records and passed the following :

ORDER

1. This petition is filed under section 228 of BNSS 2023 by the petitioner/ 3rd accused seeking exemption from personal appearance in court proceedings in CC 937/2016
2. The petitioner submits that she is the third accused in the present case and is currently facing trial before this Court in CC No.937/2016. She asserts her innocence and contends that the same will be established during the course of the trial. As per the affidavit filed by the petitioner, she is working as nurse at Saudi Arabia and will be unable to be personally present for each hearing before the court. Accordingly, the petitioner prays for exemption from personal appearance and requests that her counsel be permitted to represent her during the proceedings. In view of the above, the petitioner seeks a direction for permanent exemption from personal appearance before this Court.

3. Copy of the petition was served on the learned counsel for the complainant. No objection stated by the complainant.
4. Heard the learned counsel for the complainant and the learned counsel for the petitioner.
5. Upon a careful perusal of the case records, it is observed that the petitioner is arrayed as the third accused in CC 937/2016, registered for offences punishable under Section 452, 294(b), 323 and 506(ii) r/w 34 of IPC. It is further noted that the petitioner was granted bail in the said case on 27.10.2016 and also the charge was read over. The petitioner's case is that she is working as nurse at Saudi Arabia. The respondent stated no objection in allowing the petition. On examining the case records, the petition, and the objection, it appears that insisting on the petitioner's personal presence during trial proceedings may adversely affect her employment. Therefore, this Court finds it just and proper to exercise its powers under Section 228 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, in favour of the petitioner. Accordingly, to meet the ends of justice, this Court is of the view that the personal appearance of the petitioner/ 3rd accused may be dispensed with, subject to appropriate and adequate precautionary conditions being imposed.
6. As per the discussion of **Hon'ble Kerala High Court Moosapattupara V. State Of Kerala 2022 2 KHC 293, S.317(1) of Cr.P.C.** empowers the Judge or Magistrate to dispense with the personal attendance of the accused and to proceed with trial in his absence. Ordinarily the Court should be generous and liberal under S.205 and S.317 of Cr.P.C and grant exemption to the accused from personal appearance unless the presence is imperatively needed or becomes indispensable.
7. Taking these aspects into consideration, this Court finds it appropriate to exercise its discretion under Section 228 of the Bharatiya Nagarik Suraksha Sanhita

(BNSS) in favour of the petitioner. Therefore, in order to balance the interests of justice and ensure the progress of the trial, this Court is of the view that the personal appearance of the petitioner may be dispensed with, subject to the imposition of adequate and appropriate conditions to safeguard the integrity of the proceedings.

8. In the result, petition is allowed and the petitioner/ 3rd accused in this case is granted exemption from personal appearance before this Court on all dates of adjournments for a period of *three years* and her counsel is permitted to appear on her behalf on the following conditions: -
 1. That the petitioner would not dispute her identity as the third accused in this case during trial and her counsel, who is permitted to represent her, would appear before the Court on her behalf on each and every date of hearing and that she shall not object recording of the evidence in her absence.
 2. Petitioner shall appear before this court as and when so directed by this court.
 3. Petitioner shall appear before the court for examination under section 351 Bharatiya Nagarik Suraksha Sanhita.
 4. It is made clear that if there is any failure on the part of the counsel, who is to represent the petitioner, to appear before this Court on each adjournment, it would be open for this Court to exercise powers under S.228(2) BNSS to direct the appearance of the petitioner on each and every date of adjournment.
 5. In case of violation of any of the said conditions, the permission granted will be cancelled automatically.

Pronounced in open court on this the 6th day of November, 2025.

Sd/-

Judicial Magistrate of the 1st Class-I, Kottarakkara.

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Judicial Magistrate of the 1st Class-I, Kottarakkara.