

**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 13th day of May, 2026

Crl. M. P. No.2/2026 in CC 1395/2017

Petitioner/ 1st Accused : Aneesh Thampi Sulatha, aged 38 years,
S/o Thampi, Aneesh Bhavan,
Kannamkodu, Vettikkavala Village,
Kottarakkara Taluk, Kollam District.
(By Adv. Alwin Roys Abraham)

Respondent : State represented by the Assistant Public
Prosecutor, Kottarakkara.

Heard, perused the records and passed the following:

ORDER

1. This petition is filed under section 228 and 355 BNSS 2023 by the petitioner/ 1st accused seeking exemption from personal appearance in court proceedings in CC1395/2017.
2. The petitioner submits that he is the first accused in the present case and is currently facing trial before this Court in C.C. No.1395/2017. He maintains that he is innocent and that his innocence will be established during the course of the trial. The petitioner further states that he has recently received an opportunity to travel abroad for employment. In light of this, he prays for permanent exemption from personal appearance and requests that his counsel be permitted to represent him in all further proceedings. The petitioner also undertakes not to dispute his identity at any stage of the trial. Accordingly, he seeks the indulgence of this Court to grant him permanent exemption from personal appearance.

3. Copy of the petition was served on the learned Assistant Public Prosecutor. Heard the learned Assistant Public Prosecutor and the learned counsel for the petitioner.
4. Upon a careful examination of the case records, it is noted that the petitioner is arrayed as the first accused in C.C.No.1395/2017 registered for offences punishable under Sections 143, 147, 148, 447, 294(b), 427 r/w 149 of IPC. It is further noted that the petitioner was granted bail in the said case on 23.02.2026. As per the affidavit submitted, the petitioner has secured an employment opportunity abroad. In these circumstances, insisting on the petitioner's continued personal appearance during trial proceedings may cause undue hardship and adversely affect his employment prospects.
5. 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.
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. In the result, petition is allowed and the petitioner/ 1st 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 his counsel is permitted to appear on his behalf on the following conditions: -

1. That the petitioner would not dispute his identity as the first accused in this case during trial and his counsel, who is permitted to represent him, would appear before the Court on his behalf on each and every date of hearing and that he shall not object recording of the evidence in his absence.
2. Petitioner shall appear before this court as and when so directed by this court.
3. Petitioner shall be present before the court for Examination under section 351 of 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 13th day of May, 2026.

Sd/-

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

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