

**IN THE COURT OF THE SPECIAL JUDGE,
FAST TRACK SPECIAL COURT, TALIPARAMBA.**

Present:- Smt. Anit Joseph, Special Judge, Mattannur
(In charge of Special Judge, Taliparamba)
Thursday, the 16th day of April, 2026/26th Chaithra, 1948.

CMP.No.2/2026 IN SC 88/2025
(Crime No.187/22 of Pariyaram Medical College Police Station).

Petitioner/Accused	Abdul Nazar Pallivalappil, S/o. Musthafa, Farooq Nagar, Alakandy House, Alakkad, Panappuzha Amsom.
- V/s -	
Respondent/Complainant	S.H.O, Pariyaram Medical College Police Station. Rep. by the Spl.Public Prosecutor, Taliparamba.

The above petition is coming on for hearing before me in the presence of Sri. R. Mahesh Varma, Advocate, for the petitioner and the Special Public Prosecutor, Taliparamba, for the State on 26.03.2026, the court passed the following:-

ORDER

The petition is filed u/s 228 of BNSS

2. The case of the petitioner in brief is as follows:- During the period between August 2021 and 16th March 2022, at the house of the survivor at Eriam and at his_ friend's rented houses at Koottupuzha and Kaniyaram in

Mananthavady, the petitioner/accused repeatedly raped the survivor by making a false promise of marriage.

3. Heard both sides.

4. Perused the documents produced before the Court and learned that the petitioner is accused in Cr. No. 187/22 of Pariyaram Medical College Police Station for the offences punishable under Sec.376(2)(n) and 377 of IPC.

5. The petitioner is on bail in the case. After framing charges, when the case was scheduled for trial and summons were issued to the survivor (CW1), she failed to appear before the court. Despite giving several opportunities, CW1, who is reportedly working abroad, did not turn up. Hence, the trial could not be commenced yet. Now, the petitioner/accused approached the court seeking exemption from personal appearance.

6. After filing the application, a report has been called from the SHO concerned, as to whether any other criminal case is pending against the petitioner. The SHO filed a report stating that no other case is pending against the petitioner.

7. As indicated initially, this is a petition filed under section 228 of BNSS. Section 228 of BNSS empowers a magistrate issuing a summons to dispense with the personal attendance of the accused and allow them to appear through their counsel, if there is valid reason to do so. The petitioner who is facing trial in a Sessions Case, is seeking the leave of the court to go abroad in

pursuit of a job. He failed to file the appropriate petition. However, it is not a reason to deny fair treatment to him.

8. In umpteen decisions it has been held that the citizens against whom a criminal case is pending are entitled to get a passport and go abroad with the permission of the Court concerned. In **Satwanth Singh Sawey Vs. Union of India**, the Upex Court was pleased to hold that right to travel abroad is part of a person's personal liberty of which, he could not be deprived of except according to the procedure established by law in terms of article 21 of the Constitution and as there was no law establishing such procedure, the Government had no right to refuse a passport to any person who might have applied for the same.

9. Considering the above observation and other facts and circumstances of the case, I felt that it may consume time for the final disposal of the case. Under the circumstances, it is not fair to deprive the petitioner's valid right to go abroad in search of a job for his livelihood.

10. Hence, I am inclined to allow the petition subject to the following conditions.

1. Petitioner shall file an affidavit furnishing the details of his proposed journey and job, including the address.
2. Petitioner shall execute a separate bond for Rs.25,000/- (Rupees Twenty five thousand only) each with 2 (Two) solvent sureties for the like sum.

3. Petitioner shall be properly represented by his Counsel.
4. Petitioner shall appear before the Court as and when he is directed to do so.

On complying with the above conditions, the petitioner is at liberty to go abroad in pursuit of a job.

(Prepared and pronounced by me in open Court this the 16th day of April, 2026).

(Sd/-)

ANIT JOSEPH, SPECIAL JUDGE,
FAST TRACK SPECIAL COURT, MATTANNUR,
(IN CHARGE OF SPECIAL JUDGE, TALIPARAMBA).