

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

Present :- Niyatha Prasad,
Judicial First Class Magistrate – II, Kanjirappally

Dated this the 12th day of May, 2026

CMP. No. 02/2026

in

CC 341/2022

Petitioner/2nd Accused : Rony Sebastian, aged 29/26,
S/o Sebastian, Plapanil (H),
Vadakkumbhagam Kara,
Ponkunnam P. O, Chirakkadavu Village.

(By Adv. Sri. K. P Sanalkumar)

Respondent : State of Kerala represented by the SHO,
Ponkunnam Police Station, in Cr. No.610/22.

**(By Sri. Shajahan K.S, APP-II,
Kanjirappally)**

ORDER

This petition is filed u/s. 205 Cr.PC Criminal Procedure Code, 1973 (herein after referred as Cr.P.C)/228 of Bharatiya Nagarik Suraksha Sanhitha, 2023 (herein after referred as BNSS).

2. Petition averments in brief as follows: The petitioner is the 2nd accused in CC 341/2022 alleging the commission of offences punishable u/ss. 420 r/w 34 of Indian Penal Code (herein after referred as IPC). The petitioner is studying at Edith Cowan University – 31, donovan Street, Haynes 6112 Perth, Western Australia. In such circumstance, he filed the petition seeking permanent exemption from appearing before this court on all posting days after engaging his counsel to represent him during the course of trial.

3. Heard both sides. Perused the records.

4. Hence, after hearing the learned APP and the learned counsel for the petitioner/ 2nd accused, I am of the view that the personal attendance of the accused can be dispensed with and he can be permitted to appear through his pleader. Hence the petitioner/ 2nd accused is exempted from appearance and permitted to appear by his pleader subject to the following conditions.

1. The petitioner/2nd accused shall file a written undertaking countersigned by the counsel stating that he will not dispute his identity during the trial of the case.
2. The petitioner/2nd accused shall also file an undertaking stating that he will appear before court as and when directed and will be represented by his counsel on all posting dates.
3. The petitioner/2nd accused shall file a special vakalath empowering his counsel to a conduct the trial, answering questions during S.313(1)(b) Cr.PC examination in his absence.
4. When the case is posted for the examination of accused under clause (b) to S.313(1) of the Code, the accused should make an application to the Court as held by the Hon'ble Apex Court in **Basavaraj.R.Patil V.State of Karnataka** reported in **AIR 2000 SC 3214** praying that he may be allowed to answer the questions without making his physical presence in court on account of justifying exigency so that this court can pass appropriate orders thereon. Provided such application is accompanied by an affidavit sworn by the accused himself containing the following matters :
 - (a) A narration of facts satisfying the court of his real difficulties to be physically present in court for giving such answers.
 - (b) An assurance that no prejudice would be caused to him, in any manner, by dispensing with his personal presence during such questioning.

- (c) An undertaking that he would not raise any grievance on that score at any stage of the case to him, in any manner, by dispensing with his personal presence during such questioning.
 - (d) An undertaking that he would not rise any grievance on that score at any stage of the case.
5. The petitioner/2nd accused shall file an affidavit agreeing to comply with the above said conditions unconditionally.

(Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court on this the 12th day of May, 2026).

Sd/-
**Judicial First Class Magistrate-II,
Kanjirappally**