

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE I, CHITTUR

Present: Sri. Sivadas S, Judicial First Class Magistrate

.....

Dated, this the 10th day of February, 2026**CMP 2/2026 IN CC 688/2018**

Satheesh @ Satheeshkumar, aged 35 years,
 S/o Parameswaran, Odukumpara,
 Koduvayur, Chirur
 (By Adv.Sri. R. Gangadharan)

Petitioner/Accused No.4

State represented by the
 SHO, Pudunagaram , Cr. 7/2018.
 (By Kum. Vaheetha, APP, Chittur)

Respondent/Complainant.

ORDER

This is a petition filed by the petitioner/accused No.4 under section 228 of Bharatiya Nagarik Suraksha Sanhitha, 2023, to exempt the petitioner/accused No. 4 from personal appearance during trial.

2. The prosecution case in brief are as follows.

3. At 12.30 A.M. on 01.01.2018 all the accused in prosecution of the common object of all formed themselves into an unlawful assembly and in prosecution of that assembly committed rioting, armed with dangerous weapons like wooden stick and stones, wrongfully restrained PW1 and 2 from the road in front of a shop of one Mannadiyarkada at Odukanpara, 1st accused beat PW1 on his head and left hand by using a stone which if used as a weapon of offence is a dangerous weapon , 2nd accused beat PW1 with a wooden stick and also beat PW2 on his head with the stick and all the other accused beat PW1 and 2 on different parts of the body by using stick and also kicked him and due to the assault committed by accused no. 1 he sustained fracture to the small finger of his left hand and sustained injuries and thereby the

accused committed offence punishable under Section 143, 147, 148, 341, 323, 324, 326 r/w 149 IPC .

4. The petitioner is accused No. 4 in this case and he is already on bail. According to the petitioner he got a job opportunity in Dubai, UAE and he went to Dubai and joined duty on 10.03.2025. But now he has returned from UAE on medical leave for 20 days for stone complaint in the urinal bladder and he is undergoing ayurvedic treatment for the same. Now the treatment is almost over and he has to return to UAE for job purpose on 08.01.2026 and for the purpose he has to leave India. He has to stay abroad for 2 years in connection with his job. He further stated that he has specially authorized the counsel to answer the charge and answer the questions under Section 313(1)(b) of The Code of Criminal Procedure, 1973. He has stated that he will not raise any objection regarding the proceedings taken in his absence nor will question or dispute the evidence taken in his absence. So he prayed that he may be granted exemption from personal appearance.

5. Heard the counsel for the petitioner. Perused the records.

6. The petitioner is granted bail by this court and the petitioner is residing at abroad and it will be quite impossible and difficult for the petitioner to come and attend before the court on every posting dates. In a judgment in Sarath Vs. State of Kerala [2017(3) KLJ 130] our Hon'ble High Court held that even if a non bailable warrant is pending against the accused it is not a ground for refusing a petition under Section 228 of Bharatiya Nagarik Suraksha Sanhitha, 2023 if other appropriate grounds are made out. In this case the petitioner's definite case is that he is working in Dubai, UAE and so he may not be in a position to appear before this court. It seems to be genuine and bonafide. He filed affidavit stating that he will not question his identity nor the evidence taken without his presence. So I am of the view that

trial can be proceeded even without the presence of the accused No.4. No useful purpose would be served by requiring the personal appearance of the accused No.4. It will be sufficient if he is represented by a counsel. Hence I am inclined to allow the petition on following conditions.

1. The petitioner shall undertake that he will not dispute his identity during trial.
2. The petitioner shall undertake to appear before this court as and when required by this court.
3. The counsel appearing for the petitioner shall be present on all postings of the case and shall not disturb trial if the witnesses are present.
4. The petitioner shall undertake that all the proceedings taken by this court in his absence will be binding on him and he will not challenge that proceedings on the mere ground of the absence of the petitioner.

Dated this the 10th day of February, 2026

Sd/-
Judl. First Class Magistrate-I,
Chittur

- true copy -

Judl. First Class Magistrate-I,
Chittur