

**IN THE COURT OF THE JUDL. FIRST CLASS MAGISTRATE - I,
NEDUMANGAD**

Present: Smt. Ruby Ismail

Judl. I Class Magistrate-I, Nedumangad

Dated: Wednesday, 31st December, 2025/ 10th Pousha, 1947

C.M.P No. 6186/2025 in CC No. 168/2020

Petitioner/Accused	Vipin V Nair, aged 43 years, S/o Vijayakumaran Nair, Sreebhadra, Kuttimoodu, Kallara P.O, Vamanapuram Village (From Prasanth Vihar, Mulamukku, Kallara P.O, Vamanapuram Village) Rep. by Adv. Sri. V.Shaji
Counter Petitioner	State represented by Sub Inspector of Police, Venjaramoodu Police Station in Crime No. 157/2020 Rep. by Manmohan.A, APP Sr. Gr.
Offence	U/Ss. 294(b), 341, 323, 324 & 354 of the IPC.
Sentence or Order	Application is allowed.

This petition came up for hearing today and the court on the same day delivered the following:-

ORDER

This petition is filed by the counsel for the accused seeking permission to travel abroad, to renew the passport of the accused, and for exemption from personal appearance before this Court. The offences alleged against him are punishable under Sections 294(b), 341, 323, 324 & 354 of the Indian Penal Code.

2. The averments in brief are as follows:

The petitioner is the accused in C.C. No. 168/2020, which is presently pending before this Court. When the petitioner sought to renew his passport, it was declined by the Passport Authority on account of the pendency of the criminal case against him. He states that a passport with a minimum validity of two years is required for visa stamping as he has received an offer for employment in Dubai.

Hence, the petitioner has filed the present petition through counsel, seeking permission to renew his passport and to travel abroad for a period of two years. The petitioner further seeks exemption from personal appearance before this Court during the said period, with permission to be represented by his counsel in the proceedings. The petitioner specifically undertakes that he will not dispute his identity as the accused in this case at any stage. Hence, this petition.

3. Copy of the said application was served on the learned APP.

4. Heard both sides. The learned APP argued that if the petition is allowed there is every chance for the petitioner to abscond and thereby cause delay in trial.

5. As per Sec. 6(2) (f) of the Passports Act, 1967, the passport authority can refuse the issuance of passport or travel document for visiting any foreign county, on the ground of criminal proceedings, pending in respect of an offence alleged to have been committed by the applicant, before Criminal Court in India. But under S. 22 (a) of the said Act, the Central Government may, exempt any person or any class of persons from the operation of any provisions of the Act. Accordingly, the Central Government has issued **notification no. GSR 570(E) dated 25/08/1993 (published in the Gazette of India, Extra. Part II S. 3(i) dated 25/08/1993)** issued under clause (a) of S. 22 of the passports Act, 1967. By the said notification, the citizens of India against whom proceedings in respect of an offence alleged to have been committed by them, are pending before a criminal court in India and who produces orders from the court concerned permitting them to depart from India, are exempted from the operation of the provisions of clause (f) of sub-S. (2) of S. 6 of the said Act. The said notification also lays down certain conditions including a condition

that the said citizen shall give an undertaking in writing to the passport- issuing authority that he shall, if required by the court concerned appear before at any time during the continuance in force of the passport so issued. In **Ashok Kumar vs. State of Kerala [(2009) 2 KLT 712]**, the Hon'ble High Court of Kerala has categorically held that even in cases relating to passport offences, the court can grant no objection to apply for passport, subject to necessary conditions.

6. The petitioner also seeks to exempt him from his personal appearance before the court for 2 years and also to permit his counsel to represent him in the further proceedings.

7. Elucidating the scope of 317 of the Code, the Hon'ble Supreme Court had held in **Bhaskar Industries Ltd. v. Bhiwani Denim and Apparels Ltd., AIR 2001 SC 3625** as follows:

“17. Thus, in appropriate cases the Magistrate can allow an accused to make even the first appearance through a counsel. The Magistrate is empowered to record the plea of the accused even when his counsel makes such plea on behalf of the accused in a case where the personal appearance of the accused is dispensed with. S.317 of the Code has to be viewed in the above perspective as it empowers the court to dispense with the personal attendance of the accused (provided he is represented by a counsel in that case) even for proceeding with the further steps in the case. However, one precaution which the court should take in such a situation is that the said benefit need be granted only to an accused who gives an undertaking to the satisfaction of the court that he would not dispute his identity as the particular accused in the case, and that a

counsel on his behalf would be present in court and that he has no objection in taking evidence in his absence. This precaution is necessary for the further progress of the proceedings including examination of the witnesses.”

19. The position, therefore, bogs down to this: It is within the powers of a Magistrate and in his judicial discretion to dispense with the personal appearance of an accused either throughout or at any particular stage of such proceedings in a summons case, if the Magistrate finds that insistence of his personal presence would itself inflict enormous suffering or tribulations to him, and the comparative advantage would be less.

8. Relying upon the above decision, **the Apex Court in Puneet Dalmia v. CBI AIR 2020 SC 214** held that hat if the above undertakings are given by the accused, he can be permanently exempted even in a case of warrant trial by the Magistrate.

9. Now let's predicate the analysis of the present case and application along these principles. In this case, the petitioner is arrayed as accused for the offences punishable under Ss. 294(b), 341, 323, 324 & 354 of the Indian Penal Code. In this case the accused is represented by a counsel of his own choice to defend him in the trial. The accused is on bail. Charge has also been framed against her for offences punishable u/Ss. 294(b), 341, 323, 324 & 354 of the IPC. The case is presently in the trial stage.

10. Considering the facts and circumstances of the case I am of the view that the averments in the petition are genuine. I am also of the view that trial in the case can be conveniently held in the absence of the accused. Right in this application the petitioner had

undertaken that he would not dispute his identity during trial and authorized his counsel to do all the acts required to be done by him in connection with this case. In such circumstances, it does not appear to insist for the personal presence of the petitioner during the process of trial. As the ends of justice can very well be served by taking precautions enumerated by the Hon'ble Supreme Court in above referred edict, I find it only fit and proper to invoke powers under S. 317 of the Code in favour of the Petitioner, by stipulating sufficient precautionary measures for effective trial process.

In the result, this application is allowed as follows:

- (1) The Regional Passport Office, Thiruvananthapuram is hereby informed that this court has no objection in renewing the Passport bearing No. F 0205336 of the petitioner/accused for a period of 2 years from the date of this order, if he is otherwise eligible.
- (2) The petitioner is granted exemption from personal appearance before this court for a period of 2 years from the date of the order and he is permitted to leave abroad using his passport for the said period on the following conditions:
 - a. The petitioner shall give an undertaking in the form an affidavit that he will not dispute his identity in the case and that 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 and that no adjournment shall be asked for on behalf of the Petitioner and/or his advocate;
 - b. The Petitioner shall appear before the Court on the hearing dates whenever this Court insists for his appearance;
 - c. If there is any failure on the part of the advocate, who is to represent the Petitioner, either to appear before this Court on each adjournment and/or any adjournment is sought on behalf of the Petitioner and/or if this Court finds that the Petitioner and/or his advocate is trying to delay the trial, in that case, it would be open for this Court to

exercise powers under S.317(1) to direct the personal attendance of the accused at any subsequent stage of the proceedings.

(Pronounced by me in open court, this the 31st December, 2025)

Sd/-

Judicial First Class Magistrate – I
Nedumangad

//True Copy//

Judicial First Class Magistrate – I
Nedumangad