

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE -I, SULTHAN
BATHERY.

Present:- Smt.Safeena C.C,
Judicial First Class Magistrate-I,
Sulthan Bathery.

Wednesday 16th day of July 2025
25th day of Ashadha, 1947

CMP 1005/2025 IN ST 692/2024

Petitioner	A1 Safana D/o Sainudheen, W/o Gulam, aged 27/24, Mundrayil House, Kudukki, Cheeral Post, Cheeral amsom. (By Adv. K. G. Sudheesh)
Respondents	: State represented by the Sub Inspector Noolpuzha Police station in Crime No. 12/2024. (By Sri. Aneesh Joseph, APP Gr.I) (In charge)
Order	: Petition allowed.

This application having been heard finally on 9.7.2025 and the court passed the following: -

O R D E R

This petition is filed by the accused u/s. 228 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for dispensing the personal appearance of the petitioner/accused No.1.

2. The petitioner, who is the accused in this case, respectfully submits that she is required to travel to the U.A.E. for employment purposes and anticipates difficulties in appearing before this Hon'ble Court on all hearing dates. Accordingly, she seeks permission to be exempted from personal appearance and to allow her counsel to represent her throughout the proceedings. In the accompanying affidavit,

she affirms that she will not dispute her identity in the case, has no objection to the recording of evidence in her absence, and expresses her willingness to comply with any conditions this Hon'ble Court may be pleased to impose while granting the requested exemption.

3. Notice has been served to the learned Assistant Public Prosecutor, who strongly objects to the petition seeking exemption from personal appearance. The prosecution submits that Accused No. 1 is involved in several other criminal cases and contends that permitting the accused to remain absent is likely to cause undue delay in the trial and hinder its smooth progress. It is further submitted that there is a risk of the accused absconding once he travels abroad, and that mere undertakings may not be sufficient to ensure his return. Therefore, the prosecution prays that the petition be dismissed in the interest of justice.

4. Heard both sides.

5. The following points arise for consideration:

- i) Whether the petitioner has shown sufficient grounds to justify exemption from personal appearance under 228 BNSS?
- ii) If so, whether the petition can be allowed?

Point no i :-

6. Upon perusal of the case records, it is evident that the investigation has been completed and the case is currently under trial before this Court. The petitioner has submitted a request citing difficulty in appearing on all posting dates, as she needs to travel to the U.A.E. for employment purposes. The learned Assistant Public Prosecutor

strongly objects to the petition seeking exemption from personal appearance. The prosecution submits that Accused No. 1 is involved in several other criminal cases and contends that permitting the accused to remain absent is likely to cause undue delay in the trial and hinder its smooth progress. It is further submitted that there is a risk of the accused absconding once she travels abroad, and that mere undertakings may not be sufficient to ensure her return. Therefore, the prosecution prays that the petition be dismissed in the interest of justice. However, considering the overall circumstances, including the fact that the case pertains to the year 2024 and the trial has not yet commenced, the reasons stated in the petition appear to be genuine. Therefore, Point No. (i) is answered in favour of the petitioner.

Point No. ii:-

In the result, the petition is allowed, subject to the following conditions:-

1. The petitioner/Accused No.1 shall file an affidavit and special vakalath before this Court affirming the following:
2. The petitioner/Accused No.1 shall not dispute her identity either during the trial before this Court or at any stage of appeal.
3. The petitioner/Accused No.1 shall be represented by a duly authorized counsel on all posting dates.
4. The petitioner/Accused No.1 shall appear before the Court as and when specifically directed to do so.
5. The petitioner/Accused No.1 has no objection in taking the evidence in her absence treating the presence of the counsel as her presence, in compliance with S.355 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the petitioner shall not challenge the evidence taken in her absence either during the trial before this Court or at any stage of appeal.
6. The petitioner shall file a memo indicating her address abroad and contact number, to which communications from the Court may be

sent.

7. In case of violation of any of the above conditions, the order shall stand cancelled automatically.

(Pronounced by me in open court on the 16th day of July 2025)

sd/-

JUDICIAL FIRST CLASS MAGISTRATE-I

//True copy//

JUDICIAL FIRST CLASS MAGISTRATE-I
SULTHAN BATHERY