

BEFORE THE II ADDITIONAL DISTRICT AND SESSIONS COURT,  
ARAKKONAM, RANIPET DISTRICT.

Present: Tmt.K.S.Jayamangalam, M.L.,

II Additional District and Sessions Judge,  
Arakkonam.

Thursday the 12<sup>th</sup> day of March 2026.

CrI.M.P.No.43/2026 in S.C.No.80/2024

Gopi

S/o Subramani

...Petitioner/A9

/vs/

The State represented by

Inspector of Police,

Arakkonam Town P.S.

Cr.No.427/2019

...Respondent/Complainant

This petition is coming before me for hearing today in the presence of Thiru.S.Thiyagarajan & H.Rahul Learned counsel for the Petitioner and the Learned Additional Public Prosecutor for the respondent and considering that after hearing both sides, this court delivered the following:

**ORDER**

The petitioner is the 9<sup>th</sup> accused filed this petition under section 205 of Cr.P.C or Section 228 of BNSS Act to dispense with the personal attendance of him.

**2. Brief of petition:-**

The petitioner/A9 has received summons from this court and appearing on every hearings. He is affected by mouth-cancer and he is taking treatment at Anna Cancer Hospital, Kanchipuram hence he is not in a position to attend the court for every hearing. The identification of the petitioner/A9 is not in dispute. The personal attendance of the petitioner/A9 is not required for the conduct of the trial. He undertakes to appear before this court whenever the court directs or on important hearings. Hence, this court may be pleased to dispense with the personal attendance of the petitioner/A9 in the above case.

**3. Objections filed by the prosecution:-**

This petition is not maintainable either in law or on facts. The above case is a sessions trial involving serious offences and the presence of the petitioner/A9 is essential for the proper conduct of trial. This petition has been filed only with an intention to delay the proceedings and avoid personal appearance before this court. The petitioner/A9 has simply stated that he is suffering from mouth-cancer and he is undergoing treatment at Anna Cancer Hospital, Kanchipuram but no medical records produced before this court to substantiate his claim. Even assuming that the petitioner/A9 is undergoing treatment the same cannot be a permanent ground to dispense with personal appearance throughout the trial, particularly in a sessions case where the identification of the accused and his presence during trial proceedings are important. The petitioner/A9 has failed to establish that he is physically incapable of attending the court on hearing dates. In the absence of credible

medical proof indicating that the accused is completely bed ridden or medically unfit to travel the relief sought cannot be granted. The discretion under section 205 of Cr.P.C/Section 228 of BNSS Act is to be exercised sparingly, especially in serious criminal trial. The petition does not disclose any exceptional or compelling circumstances warranting the exercise of discretion by this court. The mere assertion of illness without proper proof cannot be accepted as a ground to dispense with personal appearance. The petition is devoid of merits and has been filed only to protract the proceedings. Hence, the petition has to be dismissed.

4. The point for consideration is:-

1) Whether the petition is to be allowed or not?

5. The Learned counsel for the petitioner/A9 has argued that the petitioner is suffering from mouth-cancer and taking treatment in Anna Cancer Hospital, Kanchipuram, hence he is not in a position to attend the court for every hearing. The petitioner/A9 undertakes to appear before this court whenever this court directs him or on important hearings. Hence his presence may be dispensed with he may be permitted to appear through his pleader.

6. The Learned Additional Public Prosecutor has argued that the petitioner is facing trial and he has alleged that he is suffering from mouth-cancer and undergoing treatment at Anna Cancer Hospital, Kanchipuram but to prove the same he has not produced any medical certificate. Even assuming that he is undergoing treatment it is not a reason for dispensing his personal appearance before this court. This petitioner has not disclosed any

exceptional or compelling circumstances warranting this court to exercise discretionary power. Therefore the present petition is liable to be dismissed.

7. After hearing the arguments of both sides, the petitioner and 9 others are facing trial for the alleged offences u/s 147, 148, 302 r/w 34 of IPC and posted for examination of L.W.1 to L.W.5. The petitioner's side argued that the the petitioner/A9 is suffering from mouth-cancer and taking treatment at Anna Cancer Hospital, Kanchipuram. To prove his ailment he has not produced any medical records before this court. However, the said fact has not been denied by the prosecution. The petitioner/A9 is aged about 50 years. If the identity of the accused arises and if his presence is required the petitioner/A9 has to appear before this court. Considering the ailment pleaded by the petitioner in his petition the present petition is allowed on condition that the petitioner/A9 has to appear before this court as and when his presence is required by this court and on behalf him, his counsel Tr.S.Thiyagarajan is permitted to represent the case.

In the result, this petition is allowed and the petitioner/A9 is directed to appear before this court as and when his presence is required by this court and on behalf him, his counsel Tr.S.Thiyagarajan is permitted to represent the case.

Dictated by me to the Steno-Typist, typed by her directly to my dictation in computer and print taken out and corrected and pronounced by me in open court, this the 12<sup>th</sup> day of March 2026.

II Additional District & Sessions Judge,  
Arakkonam.