

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 780 of 2015**

1. Varun @ Arun, S/o Shri Baldev Singh Kashyap, aged about 24 years.
2. Kuldhar @ Thela, S/o. Shri Sobharam Baghel, aged about 26 years.

Both are resident of Village Kungarpal, Police Station Bhanpuri Revenue and Civil District Bastar (C.G.)

---- Applicants

Versus

State of Chhattisgarh, through Police Station Kondagaon, District Kondagaon (C.G.)

---- Non-applicant

For Applicants : Shri Pravin Kumar Tulsyan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/09/2015

- (1) Heard on admission.
- (2) This revision is directed against the order dated 08.09.15 passed by Additional Sessions Judge, Kondagaon in Session Trial No.70/2014 by which, warrant of arrest has been issued against the applicants.
- (3) Learned counsel appearing for the applicants would submit that the applicants have appeared before the trial Court on each and every dates of hearing right from 16.09.2014 to 07.07.2015,

but on 08.09.2015 they could not appear before the trial Court as they were busy in agricultural operations on the said date and application was filed under Section 317 of the Code of Criminal Procedure for exemption from personal appearance before the trial Court but the learned Sessions Judge has rejected the application filed by the applicants and straightway issued warrant of arrest against the applicants, which is impermissible in law.

(4) Learned counsel appearing for the State would oppose this revision.

(5) The perusal of the order sheets would show that the applicants have regularly appeared before the trial Court from 16.09.2014 to 07.07.2015 except 6-7-2015 and on 08.09.2015, they could not appear before the trial Court on account of reasons assigned by the applicants in the application. They sought exemption for their personal appearance.

(6) In the considered opinion of this Court, non-appearance of applicant on 8.9.2015 is bonafide and unintentionally. It is true that two witnesses were present on 08.09.2015 before the trial Court, and they could not be examined on account of absence of the applicants but at the same time issuance of non-bailable warrant of arrest at once against the applicant is also not proper.

(7) Therefore, the order of warrant of arrest issued against the applicants is set-aside subject to payment of cost of Rs.500/- to each of the witnesses i.e. total Rs.1000/-. Now, the applicants

shall appear before the trial Court regularly on each date of hearing including on 28.10.2015 unless exempted. The concerned Additional Sessions Judge is directed to issue summon for examination of said witnesses on 28.10.2015. Copy of this order be sent to the concerned Additional Sessions Judge for needful action and compliance.

(8) With the aforesaid observation, this criminal revision stands finally disposed of.

Sd/-
(Sanjay K. Agrawal)
Judge

L/-