

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No. 1862 of 2016 (O&M)
DECIDED ON: May 18, 2016**

ASHU @ AVINASH SAROHA

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. P.S. Jammu, Advocate,
for the petitioner.

JASPAL SINGH, J.

CRM-16205-2016

Allowed as prayed for.

Main case

Challenge in this revision petition is to order dated 19.04.2016 passed by the Id. Additional Sessions Judge, Panipat whereby the application seeking exemption from personal appearance of the petitioner has been dismissed and bail bonds and surety bonds have been cancelled and forfeited and further that the warrants of arrest have been issued for securing his presence in CRA No.18/2013.

2. The contention of learned counsel for the petitioner is that the impugned order is absolutely illegal, arbitrary and unjust. As such, the same is liable to be set aside.

3. The contention of learned counsel for the petitioner is that on the basis of statement made by Ms. Suman Lata, mother of the petitioner, FIR No.237, 12.09.2004, under Sections 323, 324, 326 and 34 IPC, Police Station Samalkha, District Panipat, was registered. The accused party also lodged criminal complaint bearing No.96-1/2010, dated 21.02.2005, under Sections 323, 452, 506, 148 and 149 IPC. After trial, both the parties were convicted and sentenced in the State case as well as in complaint case vide judgment dated 09.04.2012 and order of sentence dated 10.04.2012.

4. Both the parties preferred appeals against their conviction and sentence before the ld. Additional Sessions Judge, Panipat which was consolidated pending disposal.

5. Learned counsel for the petitioner further contends that during the pendency of trial, the petitioner obtained education VISA for Ireland in the month of November 2012 and an application was also moved seeking permission to go abroad, which was allowed by trial court vide order dated 09.01.2008. Subsequent thereto, the petitioner went abroad with the permission of the ld. Trial court and during the pendency of trial, he visited India 5/6 times and attended the courts proceedings and even at the time of his conviction, he was also present before the trial court. Even before the appellate court, he remained present and also furnished bail bonds. Since, a compromise had been arrived at between the parties, during the pendency of appeal(s), he went abroad to complete his education. Subsequently, he submitted his papers seeking permanent residence in Ireland, which are still under process and as such, he is/was not in a position to return to India. He is likely to get permanent residence ship shortly within a period of 4/5 months and he undertakes that

after getting permanent residence ship from Ireland, he will return to India and join the proceedings. Thus, the impugned order is not sustainable in the eyes of law and are liable to be set aside.

6. This Court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner but the same are without any legal substance.

7. No doubt, during the pendency of trial before Id. Magistrate, the petitioner had obtained permission for going abroad but during the pendency of appeal, when the petitioner left for Ireland, he did not seek any such permission. The permission granted by Id. Trial court was operative only during the pendency of trial and any order passed by the Id. trial Magistrate ceased to exist after the disposal of the trial i.e. conviction and sentence of the petitioner and others. Since, the petitioner did not take any permission from the lower appellate court to go abroad and he remained absent despite directions several times, Id. Additional Sessions Judge is fully justified in declining the application for exemption from personal appearance of the petitioner. The petitioner has been rightly summoned through non-bailable warrants after cancellation of bonds furnished by him. Since, the petitioner left abroad without seeking permission from the lower appellate court and remained absent despite various directions to him through his counsel, impugned order cannot be faulted with. Thus, there is no illegality or infirmity in the impugned order. As such, instant petition is not maintainable and the same is dismissed.

May 18, 2016
sonika

(JASPAL SINGH)
JUDGE