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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1090 of 2017**

Sohan Kumar S/o Devendra Nath Vishwakarma, Aged About 32 Years
R/o Village Madangaachhi, Patna, Civil And Revenue District Patna,
Bihar, Presently R/o C/o Shashikant Dwivedi Behind Railway Colony,
Amraiypara, Ward No 12, Police Station Tehsil & Civil & Revenue
District Korba, Chhattisgarh.

---- Petitioner**Versus**

Central Bureau Of Investigation A. C. B. Bhilai Chhattisgarh, Through
Its Superintendent Of Police, C B I , A C B , Bhilai, Civil And Revenue
District Durg, Chhattisgarh.

---- Respondent

For the Petitioner	: Shri Adil Minhaj, Advocate.
For the Respondent	: Ms. Shriya Mishra, Advocate on behalf of Shri Kishore Bhaduri, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.08.2017**

1. Heard.
2. Learned counsel for the petitioner submits that the petitioner is being prosecuted before the Court of Special Judge, CBI Cases, Raipur in CBI Case No.1018 of 2015 and the case is pending for arguments on framing of charges. The petitioner is suffering from pain in the lower back and as such, he could not appear before the Court below on the dates' given. On the date fixed for hearing on 21.7.2017, an application was filed on behalf of the petitioner through his nephew – Rajkumar Verma to grant exemption from personal appearance alongwith the documents of his treatment. The application was rejected by the trial Court and non-bailable warrant was issued against him for his appearance. An application was filed under sub-section (2) of Section 70 of the Code of Criminal Procedure before the trial

Court for cancellation of warrant issued against the petitioner, but the same has been rejected by order dated 25.7.2017.

3. Learned counsel for the petitioner submits that the petitioner is very much willing and keen to appear before the trial Court and is ready to face the trial, hence, the order passed by the trial Court is arbitrary and erroneous and the reasons presented by the petitioner were ignored. Learned counsel prayed that this petition may be allowed.

4. Learned counsel for the respondent/ CBI submits that if the case is disposed off with an appropriate direction, then she has nothing to oppose.

5. Perused the record.

6. Considering the fact that the trial against the petitioner is at the initial stage and that the petitioner has submitted the documents in support of the treatment of ailment from which he is suffering, which has been raised as a reason for his non-appearance on given dates, it appears to be proper that an opportunity should be given to the petitioner. Hence, this petition is allowed at the motion stage. The impugned orders dated 21.7.2017 and 25.7.2017 are hereby set aside and non-appearance of the petitioner on the concerned date is condoned. The petitioner is directed to appear before the Court below on the next date of hearing.

7. Accordingly, this petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge