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

CRM-M-20546 of 2016

Date of decision: October 12, 2017

Vijay Aggarwal

.....Petitioner

Versus

Roshan Lal

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: None for the petitioner.

Mr. S.S. Jattan, Advocate for the respondent.

A.B. CHAUDHARI, J (Oral)

Following is the prayer in the present petition:-

“Petition under Section 482 Cr. P.C. for quashing the impugned order (Annexure P-8) dated 07.05.2016 vide which the learned Sessions Judge, Ambala, rejected the exemption applications (Annexure P-4) dated 02.05.2016 & (Annexure P-6) dated 03.05.2016 filed in CRA No.19 of 2015 titled as “Vijay Aggarwal vs. Roshan Lal” pending for 14.06.2016, arising out of Criminal Complaint No.1027 dated 02.08.2013 and cancelled the bail of the petitioner and forfeited the bonds to the State and warrant of arrest against the petitioner issued, without issuing the notice to the petitioner & in an arbitrary, unjust, unfair and unreasonable manner & after quashing the impugned order (Annexure P-8) dated 07.05.2016, the bail bonds of the petitioner be restored.”

Learned counsel for the contesting respondent has fairly stated all the facts arising in the present case.

Upon perusal of the record, I find that in the complaint case under Section 138 of the Negotiable Instruments Act, 1881 for recovery of money in the sum of ₹56,700/-, the petitioner was convicted by the trial Court, against which, he filed appeal before the appellate Court. During the pendency of the appeal, the matter was placed before the Lok Adalat, where the petitioner had compromised to pay back the amount, but it appears that he failed to repay the same. His appeal, therefore, remained pending. During the pendency of the appeal, he remained absent, but his Advocate applied for exemption from his personal appearance in the appeal. The appellate Court found that the ground regarding the illness of the petitioner was wrong from the statement of doctor that was recorded. The appellate Court having found that the alleged illness was not the correct ground, forfeited his bail bonds and issued warrants of arrest. Assuming that the petitioner had not complied with the terms set down in the Lok Adalat on 17.02.2016 by not paying the amount under the cheque, I find that since the petitioner was represented by the Advocate before the appellate Court, the appeal could itself be heard on merits and decided rather than pushing the petitioner in jail in a case, where the amount involved is only ₹56,700/-. In my opinion, the petitioner deserves to be given a chance to be at liberty on the same bail bonds as the appellate Court has a power to decide the appeal itself on merits and obviously, then the petitioner will have to abide by the judgment of the appellate Court. I, therefore, find no point in pushing the petitioner in jail in

the present matter.

In the result, Rule is made absolute in terms of prayer clause above. The petitioner shall appear before the appellate Court on the next date of hearing fixed before the appellate Court and the appeal shall be heard by the appellate Court as expeditiously as possible.

(A.B. CHAUDHARI)
JUDGE

October 12, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No