

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

**CRM NO. M-46180 of 2017
DECIDED ON : 04.12.2017**

Gauransh and associates and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Vivek Goyal, Advocate,
for the petitioners.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 22.11.2017 (Annexure P-6A) to the extent of imposing condition to deposit ₹1 lac while granting exemption to him from his personal appearance on only one date.

Learned counsel for the petitioner contends that the condition could not have been imposed by the Appellate Court while granting exemption to the petitioner from his personal appearance only on one date. He further contends that the Appellate Court has admitted the main appeal and suspended his sentence on 17.05.2017. He further contends that the Appellate Court has also held that in case the petitioner fails to deposit a sum of ₹1 lac, his appeal will be deemed to be dismissed. In support of his submissions, he has placed reliance upon the judgment of Supreme Court in the case of "***Dalip S. Dahankur v. Kotak Mahindra Co. Ltd. & Anr.***" **2007(2) RCR (Criminal) 636.**

In view of limited prayer of learned counsel for the petitioner, I do not intend to issue notice to respondent No.2.

Issue notice to respondent No.1.

At the asking of Court, Mr. Vikas Malik, Deputy Advocate General, Haryana, accepts notice on behalf of respondent No.1. A complete set of paper-book be supplied to him during the course of day.

The petitioner has been convicted under Section 138 of the Negotiable Instruments Act for dishonour of cheque for an amount of ₹5,75,000/-. The appeal of the petitioner was admitted and his sentence was suspended on 17.05.2017. The petitioner had preferred an application for exemption from personal appearance before the trial Court on 22.11.2017. The Appellate Court, while allowing the application, had directed the petitioner to deposit a sum of Rs.1 lac and on failure of the petitioner doing so, his appeal was liable to be dismissed. The appeal of the petitioner is pending adjudication before the Appellate Court. He had sought exemption from his appearance only on one date of hearing. The condition of deposit of Rs.1 lac while allowing his application for exemption from appearance appears to be unreasonable, as it is not a case where the petitioner had been absenting himself without any cogent reason. The application for exemption was moved by the petitioner on the ground that he was out of station on 22.11.2017.

Consequently, the petition is allowed and the impugned order dated 22.11.2017 (Annexure P-6A) to the extent

of imposition of condition to deposit a sum of ₹1 lac for exemption from personal appearance on 22.11.2017,is set-aside.

(ANUPINDER SINGH GREWAL)
JUDGE

DECEMBER 04, 2017
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<i>Whether speaking/reasoned ?</i>	<i>Yes</i>
<i>Whether reportable ?</i>	<i>No</i>