

270-A

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

CRM-M-41749-2017 (O&M)

Date of Decision: 04.09.2018

Abhimanyu Singh Vinayak

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Amit Dhawan, Advocate,
for the petitioner.

Mr. M.D. Sharma, AAG, Haryana
for respondent No.1-State.

Mr. M.S. Kathuria, Advocate
for the complainant/respondent No.2.

SUDHIR MITTAL, J. (ORAL)

The challenge in the present petition is to order dated 05.08.2017 whereby the application filed under Section 205 Code of Criminal Procedure, 1973 (for short 'the Code') for seeking permanent exemption from appearance has been rejected.

Learned senior counsel for the petitioner submits that the petitioner is an Advocate by profession practising in this Court. Every time he appears before the Trial Court, the complainant party creates an ugly scene and threatens the petitioner. Thus, the exemption from personal appearance may be granted permanently except when it is essential or when the Trial Court feels that the trial cannot proceed without the presence of the petitioner.

Learned counsel for the complainant submits that there is no threat to the petitioner as he has been provided security under the orders of this Court and thus, prayer of exemption be not granted.

The Code empowers the Court to grant exemption to an accused

from personal appearance if it is satisfied that sufficient ground exists for the same. The provision for dispensing with the personal attendance of accused at any stage of inquiry or trial has been incorporated by way of Section 205 and 317 of the Code. The language of the provision does not give any indication as to the circumstances in which the Court may exercise its discretion. A wide power appears to have been vested in the Court to grant exemption in a variety of circumstances which may present themselves in the facts and circumstances of a particular case. In the present case, the petitioner is apprehensive regarding his personal safety and seeks exemption from personal appearance on the said ground.

Learned senior counsel for the petitioner has submitted that the petitioner is willing to give an undertaking before the Trial Court that he would not challenge the proceedings of this case, in case, evidence is recorded in his absence and the prosecution witnesses are cross-examined as well. He further states that the petitioner is willing to further undertake that he would appear as and when specifically required to do so by the Trial Court and that in the same undertaking, he would mention that his counsel is authorized to appear on his behalf and get the trial conducted in his absence.

Thus, I am of the opinion that no prejudice would be caused to the complainant side in case, the personal appearance of the petitioner is exempted, upon the petitioner submitting a written undertaking before the Trial Court in the terms aforementioned.

The petition stands disposed of.

(SUDHIR MITTAL)
JUDGE

04.09.2018

Neha Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No