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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 811/2018**

DUSHYANT MEHTA Petitioner
Through: Mr. M.A. Karthik, Advocate with
Mr. Abhimanyu Kampani, Advocate
versus

STATE Respondent
Through: Mr. Mukesh Kumar, APP for the
State

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **04.09.2018**

The petitioner along with his father and brother is facing prosecution in the criminal case involving offences punishable under Sections 325/34 of Indian Penal Code, 1860 (IPC), arising out of First Information Report (FIR) No.260/2012 of Police Station Rajouri Garden. The counsel on his behalf submits that the petitioner had been earlier released on regular bail by the concerned criminal court where the charge sheet was laid and the trial is pending.

The petitioner concededly had failed to appear before the concerned Metropolitan Magistrate which led to non-bailable warrants (NBWs) being issued against him with notice under Section 446 of the Code of Criminal Procedure, 1973 (Cr.P.C.) being issued to his surety by order dated 22.12.2016. He moved an application for cancellation of the said process but the same was declined by the Metropolitan Magistrate by order dated 03.01.2017. The said order was challenged in the court of Sessions by
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Criminal Revision Petition No.67/2017 which was dismissed by order dated 03.01.2018. This led to the present petition being filed invoking inherent power of this court under Section 482 Cr.P.C.

The execution of the NBWs was stayed by the learned Single Judge, then dealing with the matter by her order dated 16.02.2018. The counsel for the petitioner submits that the petitioner had thereafter appeared before the trial court where the matter continues to be pending, it now being listed on 15.09.2018.

A perusal of the order dated 03.01.2017 would show that the petitioner had indulged in similar absence without justification on 08.04.2016, the NBWs issued against him having been cancelled by the revisional court by order dated 26.08.2016. This would show the petitioner to be in the habit of absenting at will. The counsel seeks to explain that the petitioner is pursuing course of study in Germany and it is on that count that he has been unable to appear on certain dates. Pursuit of study abroad cannot, however, come in the way of the progress of the proceedings before the criminal court.

It appears, as submitted by the counsel for the petitioner, the application of the petitioner for permanent exemption through counsel is pending before the trial court. If so, the petitioner should first seek adjudication thereupon in accordance with law and arrange his presence thereafter in accord with the order passed by the trial court.

The counsel for the petitioner, at this stage, submitted that the petitioner undertakes to abide by the directions of the concerned criminal court hereafter and not indulge in unnecessary absence from the future

proceedings in the case.

Binding the petitioner with the undertaking given on his behalf, the present petition is disposed of, the NBWs issued by orders dated 03.01.2017 and dated 03.01.2018 being cancelled.

Dasti under the signature of Court Master.

R.K.GAUBA, J.

SEPTEMBER 04, 2018

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