

\$~89

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Judgment delivered on: 11.09.2018

+ CRL.M.C. 4587/2018

REKHA KASANA

..... Petitioner

versus

STATE OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioners : Mr.Rajesh Anand, Advocate with Mr.Gaurav Adlakha, Advocate.

For the Respondents: Mr.Kamal Kumar Ghai, Addl. PP for the State.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

11.09.2018

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A.31753/2018 (exemption)

Exemption is allowed subject to all just exceptions.

Crl.M.C.4587/2018 & Crl.M.A. 31754/2018 (stay)

1. Petitioner impugns the order dated 24.07.2018 and order dated 28.07.2018 whereby the application of the petitioner seeking exemption from personal appearance was rejected and Non Bailable Warrants were issued against the petitioner.

2. Learned counsel for the petitioner submits that petitioner is a permanent resident of Canada and travels to India for the purposes of participating in the Trial. He submits that no condition was imposed in the order granting bail that petitioner has to seek permission from the Trial Court to travel abroad. However, by way of abundant precaution, an application was filed for seeking permission to travel to Canada. He submits that application got rejected, however, in view of the fact that the petitioner has minor children, who are permanent resident of Canada, the petitioner had to urgently leave for Canada. Thereafter, subject exemption application was filed, but the same was rejected and Non Bailable Warrants were directed to be issued.

3. Learned counsel for the petitioner further submits that the proceedings are at an interlocutory stage and an application under section 91 Cr.P.C. is under consideration and thereafter arguments on charge have to take place.

4. Learned counsel undertakes on behalf of the petitioner that no adjournment shall be sought from the trial Court for the purposes of addressing arguments on the application under section 91 Cr.P.C. or for argument on framing of charge on the ground of personal absence of the petitioner. He further submits that when the matter is listed for framing of charge, the petitioner undertakes to be present before the Trial Court personally.

5. Learned APP submits that in case exemption is granted to the

petitioner, there is a likelihood that the proceedings before the Trial Court may get delayed.

6. In view of the undertaking given by the petitioner, which is hereby accepted by the Court, I am of the view that there will be no impediment in the Trial or in the Trial Court in considering the application under section 91 of the Cr.P.C. and hearing arguments on charge, if petitioner is represented through counsel and does not seek an adjournment on the ground of her personal absence.

7. Petition is accordingly disposed of granting exemption to the petitioner from personal appearance before the Trial Court through counsel at the time of hearing of arguments on application under section 91 Cr.P.C. as well as on framing of charge. It is clarified that the petitioner shall be personally present in the Court on the date fixed by the trial court for framing of charge.

8. In view of the above, the impugned orders are set aside and NBWs issued against the petitioner are recalled. The pending application stands disposed of.

9. Order *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 11, 2018

ab