

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

102

CRM-M-27939-2019 (O & M)
Date of Decision:04.07.2019

LAKHWINDER KAUR

...PETITIONER

VERSUS

U.T CHANDIGARH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Judgepreet Singh Warring, Advocate
for the petitioner.

MANOJ BAJAJ, J.(ORAL)

Petitioner has prayed for grant of anticipatory bail under Section 438 Cr.P.C. as he apprehends arrest pursuant to the order dated 15.05.2019 (Annexure P-2) wherein the trial Court has proceeded to decline the prayer for exemption from personal appearance and to cancel the bail.

When confronted with the issue of maintainability of the petition under Section 438 Cr.P.C., learned counsel for the petitioner prays for treating the petition under Section 482 Cr.P.C. The prayer is accepted and the petition is treated under Section 482 Cr.P.C.

Notice of motion.

At the asking of the Court, Ms. Ashima Mor, APP, UT, Chandigarh accepts notice on behalf of the respondent-State in this petition. A copy of the paper book has been handed over to the learned State counsel, in the Court.

A perusal of the order dated 15.05.2019 reveals that the Court

has noticed the fact that previously on 13 occasions, exemption applications

filed by accused (petitioner) were allowed. The Court has taken into account those concessions as adverse to her conduct and proceeded to pass the impugned order. Once the Court on previous occasions had found justifiable reasons for exemption from personal appearance, before accepting the application, therefore, it was improper to take into account those previous concessions as willful and deliberate instances of absence on the part of the accused. Besides, it is clear that the Court has not expressed any reason for dismissing the application filed on 15.05.2019, muchless dealing with the reason or explanation given on the said date by the accused. The approach adopted by the Court is apparently erroneous.

Considering the above, the order dated 15.05.2019 is set aside and it is ordered that petitioner shall remain on bail and on the same bail bonds etc.

Disposed off.

04.07.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No

Whether Reportable : Yes/No