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

CRA-S-1827-2022 (O&M)
Date of decision : 21.09.2022

Shivkant @ Nitin

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sushil Sheoran, Advocate for the appellant.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Challenge in the present appeal is to the order dated 09.08.2022 vide which an application filed by the petitioner for exemption from personal appearance was dismissed by the Additional Sessions Judge, Charkhi Dadri and the bail granted to the appellant was cancelled and bail bonds of the appellant were forfeited and non-bailable warrants were issued against the appellant.

Learned counsel for the appellant has submitted that the appellant was granted regular bail vide order dated 22.06.2021 passed by the Additional Sessions Judge, Charkhi Dadri and has referred to the zimni orders (Annexures A-5 to A-7) to show that the appellant had been appearing regularly before the Sessions Court and, thereafter, when the

matter was fixed for 09.08.2022, an application for exemption from personal appearance was moved by the appellant on account of the fact that he was suffering from viral fever and his platelets counts were low and on the said aspect, the Medical Certificate has also been annexed by the appellant as Annexure A-3 with the present appeal. It is further submitted that however, on 09.08.2022, the impugned order was passed and the case was adjourned to 23.08.2022. It is contended that on 23.08.2022, the Court was not being held and the case was adjourned to 23.09.2022 and the appellant now undertakes to appear within a period of one week from today before the trial Court and also undertakes to appear on each and every date except the date when his personal appearance is specifically exempted by the Court.

On the other hand, learned State Counsel has opposed the present appeal and has submitted that on 09.08.2022, two witnesses i.e. complainant-Rambir and Akash were present and could not be examined on account of non-appearance of the present appellant and thus, the same has caused inconvenience to the said two witnesses and delay of proceedings. It is further submitted that the impugned order had been rightly passed.

This Court has heard the learned counsel for the parties and has perused the paper book.

The present appellant was granted bail vide order dated 22.06.2021 passed by the Additional Sessions Judge, Charkhi Dadri. A perusal of zimni orders dated 16.08.2021 (Annexure A-5), 12.10.2021 (Annexure A-6) and 11.02.2022 (Annexure A-7) would show that the appellant had been regularly appearing before the Sessions Court. A perusal of the zimni order dated 10.06.2022 (Annexure A-8) would show that the

case was adjourned to 09.08.2022 on account of summer vacations. On 09.08.2022, application (Annexure A-4) was filed for exemption of personal appearance of the appellant, in which, it has been specifically stated that the appellant was suffering from viral fever and his platelets counts were low and on account of the said fact, he could not appear on 9/8/22 when the impugned order was passed and the said application for personal exemption was dismissed. Further a perusal of order dated 22.08.2022 (Annexure A-9) (page 33 of the paper book) would show that the case was adjourned to 23.09.2022 as the Court was not being held. Learned counsel for the appellant has also placed on record the Medical Certificate of the appellant (Annexure A-3) in support of his arguments.

Learned counsel for the appellant has already submitted that the appellant has undertaken to appear before the trial Court within a period of one week from today and to also appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. He has very fairly submitted that the appellant would pay an amount of Rs.10,000/- (Rs.5000/- each) to Rambir and Akash, who had appeared on 09.08.2022 when the impugned order was passed and whose examination could not be done on account of non-appearance of the appellant.

Keeping in view the abovesaid facts and circumstances, the present appeal is allowed and the impugned order dated 09.08.2022 is set aside subject to the appellant appearing before the trial Court within a period of one week from today and on his appearance, the trial Court is directed to release the appellant on bail on his furnishing bail bonds/surety

bonds to the satisfaction of the concerned trial Court. The same would also be subject to the appellant depositing an amount of Rs.10,000/- within the stipulated time with the trial Court, which would be released to the said Rambir and Akash in equal proportion i.e. Rs.5,000/- each, by the trial Court and would also be subject to the appellant giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is specifically exempted by the Court.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the stipulated period, then the present appeal would be deemed to have been dismissed.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid order.

21.09.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**