

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

CRM-M-9961-2023

Date of Decision: February 24, 2023

JAVED @ J.D. @ JAVED ILYAS MALIK

..... Petitioner

Versus

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ajay Kumar Dahiya, Advocate for the petitioner.

Mr. Sumit Jain, Addl. A.G. Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present petition filed under Section 482, prayer has been made for setting aside the orders dated 19.01.2023 and 27.01.2023 passed by Court of Ld. Addl. Sessions Judge, Faridabad whereby the bail bonds of the petitioner has been cancelled followed by forfeiture of surety bonds and issuance of non-bailable warrants against him.

The facts of the case are that the petitioner was nominated as an accused in case FIR No.250 dated 15.05.2017 under Sections 379-B & 506 IPC and 25/54/59 of Arms Act registered at P.S. Sector-31, Faridabad, wherein he was granted the concession of bail vide order dated 03.08.2017 passed by Court of Ld. Addl. Sessions Judge, Faridabad. During trial, the petitioner has been repeatedly seeking exemption from personal appearance and again a similar request was

made before the trial Court on 19.01.2023 which came to be declined by the Court of Ld. Addl. Sessions Judge, Faridabad resulting into cancellation of his bail bonds/forfeiture of surety bonds and issuance of non-bailable warrants against him. The petitioner moved an application for restoration of his previous surety bonds as well as cancellation of non-bailable warrants issued against him, the said application was dismissed by Court of Ld. Addl. Sessions Judge, Faridabad vide order dated 27.01.2023.

By way of present petition, the aforesaid two orders dated 19.01.2023 and 27.01.2023 have been impugned herein. Learned counsel for the petitioner submits that the petitioner has not been keeping good health for the past two years & six months and even on the relevant date i.e. 19.01.2023 he was admitted in the J.P. Chandra Hospital, Shastri Park, New Delhi and was not in a position to appear before the trial Court. Learned counsel for the petitioner further submits that the petitioner has no intention to delay the disposal of the trial and undertakes to appear before the trial Court on each and every date.

On the other hand, prayer made herein has been vehemently opposed by learned State counsel who submits that for the past one year the petitioner has moved repeated applications for seeking exemption from personal appearance and his whole intention is to delay the disposal of trial. Learned State counsel further submits that it is a case under Section 379-B and the presence of petitioner is very much essential before the trial Court at the time of recording of prosecution evidence for the purpose of his identification.

I have heard learned counsel for the parties and have gone through the paper-book.

In the facts and circumstances of the present case, though, I do not see any reasonable justification for non-appearance of petitioner before the trial Court, however, considering the medical condition of the petitioner on the relevant date, I direct the petitioner to appear before the trial Court within 10 days and furnish his bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate. It is, however, made clear that the petitioner shall continue to appear before the trial Court unless granted exemption specifically.

Accordingly, the present petition is allowed and the impugned orders dated 19.01.2023 and 27.01.2023 are hereby set subject to payment of cost of Rs.5.000/- in Punjab & Haryana High Court Bar Clerk’s Association within a period of one week.

24.02.2023
tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>