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2023:PHHC:046233

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124 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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DATE OF DECISION:-28.03.2023

Aegle Healthcare (through its proprietor) and another

...Petitioners.

vs.

State of UT, Chandigarh and another

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Aashish Bhagat, Advocate for the petitioners.

Mr. Deepinder Brar, Addl., U.T., Chandigarh.

HARKESH MANUJA, J.

By way of present petition under Section 482 Cr.P.C., prayer has been made for setting aside an order dated 27.01.2023 passed by the court of learned Additional Sessions Judge, Chandigarh, whereby an application seeking personal exemption from appearance, filed at the instance of petitioners, was dismissed, resulting into cancellation of his bail bonds, besides, forfeiture of surety bonds followed by issuance of non-bailable warrants against him.

The facts leading to the present case are that a complaint under 138 of the Negotiable Instruments, 1881, came to be filed against the petitioners, at the instance of respondent No.2, in which, petitioner No.2 was sentenced to undergo imprisonment for a period of three months. Later on, vide order dated 27.11.2018, petitioner No.2 was released on bail for a period of one month to file an appeal. Accordingly, petitioners filed an

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appeal before the appellate court, in which, petitioner No.2 was granted the concession of suspension of sentence, vide order dated 26.12.2018. Thereafter, petitioner(s) has been regularly appearing before the appellate court but for 27.01.2023, on which date, an application was filed at his instance for grant of personal exemption on the ground that petitioner No.2 was in Ujjain, Madhya Pradesh on account of some professional work, however, the same was dismissed by the learned appellate court, resulting into cancellation of his bail bonds, besides, forfeiture of surety bonds, followed by issuance of non-bailable warrants against him.

By way of present petition, impugning the order dated 27.01.2023, learned counsel for the petitioners submits that non-appearance of the petitioner(s) on the date fixed before the appellate court was wholly unintentional and on account of bonafide reasons. Learned counsel further submits that the petitioner(s) is a law abiding citizen and has all respects for law and the courts and can never dare to challenge its Majesty.

Learned counsel for the petitioner(s) also submits that the petitioner(s), if, given a chance, shall continue to appear before the court below in the proceedings pending against him, unless granted exemption specifically and categorically.

On the other hand, learned counsel for respondent-UT, Chandigarh opposes the prayer made in the present petition.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

A perusal of paper book shows that an application for seeking

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exemption from appearance was filed before the appellate Court on the ground that petitioner No.2 was away to Ujjain, Madhya Pradesh on account of his personal work. Considering the fact of the present case, there does not appear to be any plausible reason to disbelieve petitioner No.2.

In view of the above, the order dated 27.01.2023 is set aside. As such, the present petition is disposed of with the direction to the petitioner to surrender before the appellate court within a period of two weeks from today and submit his fresh bail bonds and surety bonds to its satisfaction.

28.03.2023

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No