

CRM-M-21464-2023

2023:PHHC:060786

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116 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21464-2023

DATE OF DECISION:-28.04.2023

Harish Gupta

...Petitioner.

VS.

State of Haryana and another

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Suneel Ranga, Advocate,
for the petitioner.

HARKESH MANUJA, J.

By way of present petition under Section 482 read with Section 389(2) Cr.P.C., prayer has been made for quashing of order dated 15.03.2023 passed by the court of learned Additional Sessions Judge, Panchkula, whereby an application seeking personal exemption from appearance, filed at the instance of petitioner, 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 petitioner, at the instance of respondent No.2, in which, petitioner was sentenced to undergo simple imprisonment for a period of one year and to pay Rs.10 lakhs as compensation to the complainant vide order dated 31.07.2018 passed by learned Judicial Magistrate Ist Class, Panchkula.

Being aggrieved, petitioner filed an appeal before the appellate court, in

which, petitioner was granted the concession of suspension of sentence, vide order dated 30.08.2018. Thereafter, petitioner has been regularly appearing before the appellate court but for 11.02.2023, when he could not appear before the National Lok Adalat due to some personal reasons and the matter was adjourned to 15.03.2023. On the said date, an application was filed at the instance of petitioner for grant of personal exemption on the ground that he was not well, 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 15.03.2023, learned counsel for the petitioner submits that non-appearance of the petitioner on the date fixed before the appellate court was wholly unintentional and on account of bonafide reasons. Learned counsel further submits that the petitioner 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 also submits that the petitioner, if, given a chance, shall continue to appear before the court below in the proceedings pending against him, unless granted exemption specifically and categorically.

Notice of motion to respondent No.1 only.

Mr. R.K. Ambavta, AAG, Haryana, who is present in Court accepts notice on behalf of respondent No.1-State.

I have heard learned counsel for the petitioner 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 exemption from appearance was filed before the appellate Court on the ground that petitioner was not well. Considering the fact of the present case, there does not appear to be any plausible reason to disbelieve the petitioner.

In view of the above, the order dated 15.03.2023 is set aside. As such, the present petition is disposed of with a direction to the petitioner to surrender before the appellate court within a period of 10 days from today and on his doing so, he shall be admitted to bail on his furnishing fresh bail bonds and surety bonds to its satisfaction.

Keeping in view the fact that the appeal is pending consideration for the past 5 years, the appellate court is requested to dispose of the same within a period of two months from today.

The aforesaid order shall be subject to payment of costs of Rs.10,000/- to be paid to respondent No.2.

This matter is being decided without issuing notice to respondent No.2, least it may delay the disposal of appeal before the appellate court as well as to avoid unnecessary cost of litigation to respondent No.2.

28.04.2023

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(HARKESH MANUJA)
JUDGE

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