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131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51550-2023
Date of Decision: 11.10.2023

Balbir

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Rajesh Goyal, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the impugned order dated 04.09.2023 passed in **CRA-95-2020** titled as '**Balbir Vs. Ashok Kumar**', vide which the application for exemption from personal appearance of the petitioner, has been dismissed by the Additional Sessions Judge, Panipat, and non-bailable warrants have been issued against the petitioner .

2. It is submitted by learned counsel for the petitioner that the petitioner preferred an appeal against the judgment dated 03.02.2020 and the order of quantum of sentence dated 04.02.2020 passed in Criminal Complaint case No.272 of 2017 titled as '**Ashok Kumar Vs. Balbir**' by the Judicial Magistrate Ist Class, Panipat, and his sentence was suspended on 04.03.2020 by the Appellate Court. However, on 04.09.2023, the petitioner could not appear before the Appellate Court because he was suffering from

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fever and he moved an application for exemption from personal appearance through his counsel. But the Appellate Court has dismissed the said application and non-bailable warrants have been issued against the petitioner. Learned counsel submits that the absence of the petitioner from the court proceedings was not intentional. The petitioner is not intending to avoid the process of Court. Rather, he undertakes to appear before the Court below regularly. Hence, the petitioner deserves to be protected against his arrest.

3. Notice of motion.

4. Mr. Vinay Phogat, DAG, Haryana, accepts notice on behalf of the respondent-State. He submits that although, the petitioner does not deserve the concession of bail because he had absconded from the process of law, however, the State has no objection if the petitioner appears before the Court below.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

6. In view of the above, the present petition is allowed and the impugned order dated 04.09.2023 passed by the Additional Sessions Judge, Panipat, in **CRA-95-2020** titled as '**Balbir Vs. Ashok Kumar**' is quashed,

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subject to the petitioner appearing before the Court below on or before 30.10.2023. It is further directed that in case the petitioner so appear before the Court below on or before 30.10.2023, then the petitioner shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the Appellate Court concerned.

(RAJBIR SEHRAWAT)
JUDGE

11.10.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No