IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 5th OF JANUARY, 2024

MISC. CRIMINAL CASE No. 58200 of 2023

BETWEEN:-

NARENDRA SINGH KUSHWAH S/O LATE SHRI MAHARAJ SINGH KUSHWAH, AGED ABOUT 63 YEARS, OCCUPATION: SOCIAL WORK AND AGRICULTURE AT PRESENT ALSO ELECTED MLA, R/O. WARD NO 25 YADUNATH NAGAR NEAR LAHAR CHUNGI DISTRICT BHIND (MADHYA PRADESH)

.....APPLICANT

(BY SHRI RAVI CHOUDHARY - ADVOCATE APPEARS THROUGH VIDEO CONFERENCING)

AND

1. **THE STATE OF MADHYA PRADESH THROUGH POLICE STATION DEHAT DISTT BHIND (MADHYA PRADESH)**

2. **BABU RAM JAMOR S/O SHRI DHANI RAM JAMOR, AGED ABOUT 71 YEARS, OCCUPATION: AGRICULTURIST, R/O.. VILLAGE REHLA POST CHANDUPURA DISTRICT BHIND (MADHYA PRADESH)**

.....RESPONDENTS

(SHRI ALOK AGNIHOTRI - GOVERNMENT ADVOCATE FOR RESPONDENT NO.1)
(SHRI HARSH GUPTA - ADVOCATE FOR RESPONDENT NO.2)

This application coming on for admission this day, the court passed the following:

ORDER

Counsel for the parties have submitted before this Court that in a case registered against the present petitioner vide Crime No.11/2015 under Sections 365, 294, 506-A of IPC and Section 3(1)(X) of SC/ST Act, 1989, though

Signature Not Verified
Signed by: SATYA SAI RAO
Signing time: 1/5/2024
7:09:49 PM

parties entered into settlement and moved an application under Section 320 of CrPC before the trial Court on 12.12.2023. On the said date, the trial Court allowed the application to the extent that the offences which were compoundable have been reduced and for remaining sections, the application got rejected and the case was fixed for 20.12.2023. On 20.12.2023, the petitioner did not appear before the trial Court and moved an application under Section 317 of Cr.P.C. for exemption from personal appearance and also sought leave to permit him to appear through Video Conferencing but the said application got rejected and warrant of arrest was issued against him.

2. Counsel for the petitioner submits that petitioner is an elected Member of Legislative Assembly and he has to attend the meeting of Legislative Assembly and at the same time his physical condition was not good, therefore, he moved an application seeking exemption from personal appearance, although it has been rejected and, therefore, he submits that the order passed by the trial Court issuing warrant of arrest be set aside and his application may be allowed.

3. Although, Shri Agnihotri learned counsel appearing for the respondent/State has opposed the submission made by counsel for the petitioner and submitted that at the most petitioner should appear before the trial Court atleast once and then he can move an application for exemption from his personal appearance.

4. Considering the submissions made by counsel for the parties, perusal of the application as well as the order passed by the trial Court as has been informed to this Court that the case is fixed for 08.01.2024 before the trial Court for appearance of other accused persons and, therefore, it is directed that present petitioner shall also appear before the trial Court on the said date and if

Signature Not Verified
Signed by: SATYA SAI RAO
Signing time: 1/5/2024
7:09:49 PM

that is done, the arrest warrant issued against him will not be executed and application seeking exemption from personal appearance shall also be considered by the trial Court sympathetically considering the factual position that matter since has already been settled between the parties, therefore, his personal appearance would not be required and even if it would be required and the Court directs so, the petitioner would appear before the trial Court.

5. With the aforesaid, the application stands **disposed of.**

(SANJAY DWIVEDI)
JUDGE

rao

Signature Not Verified
Signed by: SATYA SAI RAO
Signing time: 1/5/2024
7:09:49 PM