

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20486-2024
DECIDED ON: 29.04.2024

BISHAN SINGH

.....PETITIONER

VERSUS

SANJEET AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sudesh Kumar, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 18.01.2024 (Annexure P-5), passed by Addl. Sessions Judge, Gurugram in appeal bearing No.CRA No.488/2023, dated 04.09.2023, whereby the application for exemption from personal appearance of the petitioner has been dismissed and the bail granted to the petitioner vide order dated 04.09.2023 has been cancelled and bonds are forfeited.

It is vehemently contended by learned counsel for the petitioner that the petitioner and his wife are physical handicapped and both are having permanent disability of 45% and 60% respectively. On account of personal difficulty on 18.01.2024, the petitioner could not appear before the Court and accordingly moved an application for exemption on that date but without considering the prayer made in the exemption application, the Appellate Court cancelled the bail granted to the petitioner vide order dated 04.09.2023 and bonds were forfeited.

From the perusal of the impugned order dated 18.01.2024 (Annexure P-5), it is evident that on earlier occasion also, the petitioner had moved the application for exemption which definitely resulted delay in the appellate proceedings.

However, learned counsel for the petitioner on instruction from his client undertakes before this Court that there will be no default in future qua his presence before the Appellate Court on any of the dates and no such application for exemption from personal appearance would be made until and unless there is justifiable cause only relating to the medical ailment that too supported with the medical certificate issued by Civil Surgeon of the concerned Civil Hospital.

In light of the above, this Court is sanguine of the fact that it will only speed up the proceedings before the Trial Court which is one of the essence as enshrined under Article 21 of the Constitution of India and in view of the undertaking given by counsel for the petitioner, this petition is allowed and order dated 18.01.2024 passed by Addl. Sessions Judge, Gurugram is hereby quashed.

The petitioner is directed to surrender before the trial Court within a period of one week from today and apply for regular bail.

In case, such an application for bail is moved by the petitioner before the learned Appellate Court, the same shall be considered on the same date and decided in accordance with law.

However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

There is no denial to the fact that due to petitioner’s act, delay has occurred in trial proceedings and has caused prejudice to the other side and to compensate the delay which is caused by the petitioner alone, he is directed to deposit costs of Rs.5,000/- with the Bharat Vikas Parishad Charitable Trust, Sector 12-A, Panchkula and a receipt of the same be produced before the Appellate Court and only in that eventuality, application of the petitioner for seeking bail be considered and decided on the same day.

The instant petition is disposed of in the aforesaid terms.

29.04.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No