



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34073-2024 (O&M)
Date of Decision:24.07.2024

N.K. Oswal and Anr. ...Petitioners

vs.

Employees State Insurance Corporation ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Rajesh Kumar, Advocate
for the petitioners.

Mr. H.S Bhatia, Advocate
for the respondent.

N.S.Shekhawat J. (Oral)

1. The petitioners have filed the present petition under Section 528 of B.N.S.S for quashing of order dated 07.06.2024, passed by the Court of Additional Sessions Judge, Chandigarh, whereby the application filed by the petitioners for re-calling of order dated 21.02.2024 was ordered to be dismissed.
2. Learned counsel for the petitioners contends that the petitioners were convicted by the Court of Judicial Magistrate Ist Class,Chandigarh on 05.03.2013 and thereafter, the petitoners had filed a criminal appeal No.1019/2013 titled as “N.K Oswal and Anr. Vs. E.S.I Corporation” before the Court of Additional Sessions Judge, Chandigarh. Learned counsel further contends that the said appeal is pending since 2013 and the petitioner was regularly appearing before the Appellate Court. Thereafter, on 21.02.2024, the counsel for the petitioner No.1 appeared before the Appellate Court and could

not explain the facts to the Appellate Court. Consequently, the bail granted to the petitioner No.1 was cancelled and both the petitioners were ordered to be served through non-bailable warrants. Thereafter, the petitioners moved an application for re-calling of the order dated 21.02.2024 passed by the Appellate Court only to the extent of cancellation of the bail of the petitioners and restoration of the original bail bond till the disposal of the appeal. However, vide the impugned order 07.06.2024, the said prayer was declined by the Appellate Court.

3. Learned counsel for the petitioners further submits that the petitioner No.1 is an old man aged about 72 year and is suffering from throat cancer for the last 04 years. He is under treatment of the doctors at Max Hospital, New Delhi and Breach Candy Hospital, Mumbai. Due to this, he is not in a position to walk and speak properly and could not appear before the Court.

4. Learned counsel for the petitioners further submits that the petitioner No.1 shall file an undertaking before the Appellate Court that he shall appear before the Court on each and every date of hearing and shall not move an application for exemption from personal appearance. However, he submits that since the appeal is pending from 2013, appropriate directions may be issued to the Appellate Court to decide the appeal in a time bound manner.

5. On the other hand learned counsel appearing on behalf of the respondent submits that he has no objection, in case the petitioner No.1 is permitted to appear before the Appellate Court within some stipulated time period. However, he also prays that directions may be issued for early disposal of the appeal by the Appellate Court.

6. I have heard learned counsel for the parties and perused the record.
7. In the present case, it is apparent that the petitioner No.1 is aged about 72 years and is suffering from throat cancer. Even he is stated to be under treatment from various multi-speciality hospitals in New Delhi and Mumbai.
8. Consequently, taking a lenient view of the matter, petitioner No.1 is permitted to appear before the Appellate Court on or before the next date of hearing i.e 31.07.2024 and he shall be admitted to bail subject to furnishing bail bonds and surety to the satisfaction of the concerned Court.
9. Since the appeal is pending since year 2013, the Appellate Court is directed to decide the appeal within a period of 06 weeks from the next date of hearing. However, the petitioner is directed to file an undertaking before the Appellate Court that he shall appear on each and every date of hearing and shall not move any application for exemption from personal appearance. The petitioner is further directed to file an undertaking that he shall not seek any un-necessary adjournment from the Appellate Court.
10. In view of the above, the present petition stands disposed of.
11. Pending application (s), if any, stand(s), disposed of, accordingly.

24.07.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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