



CRM-M-34091-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34091-2024

Date of Decision: 30.07.2024

N.S. Oswal and another

...Petitioner

Versus

Employees State Insurance Corporation

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

ANOOP CHITKARA, J.

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. The nature of the order this Court proposes to pass is such that no notice is required to pass to the respondent.

3. Perusal of the file shows that it is a case of bail jump and Coordinate Bench of this Court in a similar matter filed by the petitioner, had already granted relief to them.

4. 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 petitioners had filed a criminal appeal No.1021/2013 titled as "N.K Oswal and Anr. Vs. Employees State Insurance 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 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



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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.

5. 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. Counsel for the petitioners further submits that 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.

6. In the present case, it is apparent that 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.

7. Consequently, taking a lenient view of the matter, petitioner No.1 is permitted to appear before the Appellate Court on or before 10.08.2024 or on the next date of hearing whichever is earlier and the trial Court shall release him subject to furnishing bail bonds and surety to its satisfaction.

8. Ordinarily, this Court refrains from issuing any direction to the trial Court/Appellate Court to decide any case on priority or within a time bound manner because it disturbs the slot of the Court, but in this case, petitioner is aged 72 years and suffering from throat cancer and appeal is pending since 2013, therefore the concerned Court is requested to decide the appeal preferably within six months. It is clarified that petitioner shall not ask for adjournment.

9. Petition is disposed of with the aforesaid observations. Pending application(s), if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.07.2024

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Whether speaking/reasoned: Yes

Whether reportable: No.