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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of decision : 26.11.2024

Ajay Chhabra

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Anuj Balian, Advocate
for the petitioner.

Mr. Anmol Malik, DAG Haryana

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 528 of BNSS, 2023 for quashing the order dated 14.10.2024 passed by learned trial Court (Annexure P-2) issuing the warrants of arrest in the complaint case bearing case NO. COMA 1 of 2019 titled as *ESIC vs. M/s Sonata Exports* under Section 85(a) of the Employees State Insurance Act, 1948.

2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the complaint case filed by the Employees State Insurance Corporation against the petitioner and other alleged Directors of the firm. He further submits that the petitioner was attending the Court on each and every date since 2019 but in the month of October, he fell ill due to dengue and he was not in a position to attend the Court or to communicate with his lawyer due to which he failed to appear on 14.10.2024 and on account of the same, the trial Court has

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issued warrants of arrest against the petitioner. Learned counsel has placed reliance upon blood report and the documents depicting health of the petitioner annexed with the petition as Annexure P-1. He further submits that his absence was unintentional and he is ready to appear before the trial Court and abide by all terms and conditions imposed upon him.

3. Notice of motion.

4. At the asking of the Court, Mr. Anmol Malik, DAG Haryana, accepts notice on behalf of the respondent-State and waives service. He opposed the petition and submits that the impugned order has rightly been passed by the trial Court.

5. Heard the rival submissions made by learned counsel for the parties.

6. On hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was regularly appearing before the trial Court, however, he could not appear before the trial Court on one date i.e. 14.10.2024 and on account of the same, warrants of arrest were issued. The petitioner is ready to appear before the trial Court and face the trial.

7. The objective of the coercive mechanism prescribed is to ensure that the accused remains 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.

8. This Court finds that no useful purpose will be served by sending the petitioner in custody when he was continuously appearing before the trial Court but could not appear on one date only.

In view of the above, the present petition is allowed. Order dated



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14.10.2024 (Annexure P-2) is hereby set aside **subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh.** The petitioner after depositing the cost as stated above would appear before the trial Court within two weeks and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on same bail bonds/surety. In the meanwhile, no coercive action would be taken against the petitioner. In case, the petitioner fails to appear before the trial Court within two weeks or fails to deposit the cost as stated above, this order would be of no avail to the petitioner.

(KIRTI SINGH)
JUDGE

26.11.2024
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No