



2024:DHC:3796



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 09.05.2024***+ **CRL.M.C. 3720/2024****AKIL AHMED**

..... Petitioner

Through: Mr.R.H.A. Sikander, Mr.Jatin
Bhatt, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr.Madhukar Pandey, SPP
with Sulabh Gupta, Adv.
(through VC) with SI Rajiv
Kumar**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)****CRL.M.A. 14260/2024 (Exemption)**

1. Allowed, subject to all just exceptions.

CRL.M.C. 3720/2024

2. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), challenging the Orders dated 20.01.2024 and 24.01.2024 passed by the learned Additional Sessions Judge-03, North East District, Karkardooma Courts (hereinafter referred to as the 'Trial Court'), Delhi in Sessions Case No.99/2021 titled *State v. Akil Ahmed @ Papad*, to the limited extent of cost of Rs. 10,000/- imposed and upheld by these orders.



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3. By the Order dated 20.01.2024, cost of Rs.10,000/- has been imposed on the petitioner for recall of witness PW16, Constable Gyan Singh, and by the Order dated 24.01.2024, the application filed by the petitioner seeking waiver of the cost has been dismissed by the learned Trial Court.

4. The learned counsel for the petitioner submits that the petitioner is not a man of financial means and does not have the resources to pay the cost that has been imposed on him by the learned Trial Court. He submits that, in fact, if the cost is not waived, the relief granted to the petitioner vide Order dated 20.01.2024 by the learned Trial Court would itself be rendered nugatory. He submits that the counsel is appearing for the petitioner *pro bono*, both, before the learned Trial Court and before this Court .

5. Issue notice.

6. Notice is accepted by Mr.Madhukar Pandey, learned Special Public Prosecutor.

7. He submits that the petitioner is merely delaying the trial on one pretext or the other. He submits that the petitioner is being represented by a senior counsel and, therefore, it cannot be believed that he does not have the means to pay the cost of Rs.10,000/- that is imposed by the trial court.

8. I have considered the submissions made by the learned counsels for the parties.

9. In the present case, the learned counsel for the petitioner has drawn my attention to the Order dated 22.04.2021, wherein, on an application filed by the petitioner seeking reduction of the surety bail



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amount, the Trial Court took into account the fact that the petitioner could not arrange for a surety of Rs.20,000/- for being released on bail, and reduced the surety amount to Rs.5,000/-.

10. I have also no reason to doubt that the counsel appearing for the petitioner may be representing the petitioner *pro bono*.

11. However, at the same time, the learned counsel for the respondent has insisted that there is a considerable delay being caused by the petitioner on one pretext or the other. To counter the submission, the learned counsel for the petitioner submits that the further cross-examination of PW16, Constable Gyan Singh, which has been allowed by the Impugned Order dated 20.01.2024, shall positively be concluded within one day and no adjournment shall be sought on the said date. In case the learned Trial Court finds that for some valid reason the cross-examination of the witness could not be completed within one day, it may allow the petitioner to continue the cross-examination on the subsequent day.

12. Binding the petitioner to the above statement, the Impugned Order dated 20.01.2024 is modified to the limited extent that the cost imposed on the petitioner of Rs.10,000/- stands waived. Resultantly, the Impugned Order dated 24.01.2024 is set aside having been rendered infructuous.

13. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

MAY 9, 2024/ns/am

[Click here to check corrigendum, if any](#)