

CRM-M-66696-2025

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(129)

CRM-M-66696-2025
Date of Decision: 01.12.2025

MOHAMMAD SUHAIL @ SAYED SOHAIL

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

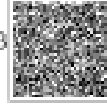
Present: Mr. R.S.Rai, Senior Advocate with
Mr. Abhinav Sood, Advocate,
Ms. Anmol Gupta, Advocate,
Ms. Mehndi Singhal, Advocate and
Ms. Radhika, Advocate
for the petitioner.

Mr. Naveen Sharma, Advocate for complainant.

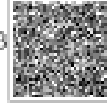
KIRTI SINGH, J. (ORAL)

1. Prayer in the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for quashing of the impugned order dated 22.01.2025 passed by the learned Additional Sessions Judge/Fast Track Special Court, in FIR No.147 dated 20.03.2015 registered under Sections 13(C), 14(1) and 23 of the POCSO Act and Sections 469, 471 and 120-B of IPC and Section 67-B of the Information Technology Act, 2000, at Police Station Palam Vihar, Gurugram, whereby the application filed by the petitioner seeking permanent exemption for his personal appearance, has been dismissed.

2. Learned Senior counsel for the petitioner submits that the present FIR was registered against the petitioner and other co-accused on the complaint moved by the complainant alleging therein that a distorted video



News 24 TV Channel, and presented in an inappropriate manner, that too without concealing the identity of the complainant or her family, causing them irreversible damage. Challan was presented, and subsequently charges against the petitioner and some other co-accused were framed on 25.08.2023. It is submitted that the petitioner was granted the concession of regular bail by the learned Additional Sessions Judge, Gurugram vide order dated 7.6.2022, and that he was even exempted from appearing personally on various dates by the learned trial Court. Learned Senior counsel submits that on 14.11.2024, the petitioner moved a similar application before the trial Court, but vide order dated 14.11.2024, the same was dismissed. Moreover, even bail granted to the petitioner was ordered to be cancelled and the bail bonds and surety bonds were ordered to be forfeited to the State. Being aggrieved from the said order, the petitioner preferred CRM-M-59835-2024 before this Court, whereby the order dated 14.11.2024 was quashed; and with regard to the prayer seeking permanent exemption from personal appearance, the petition was withdrawn but with liberty to file a fresh petition for the same. Thereafter, the petitioner moved an application seeking permanent exemption from personal appearance. However, vide the impugned order, the said application was dismissed by the trial Court. Learned Senior counsel submits that the petitioner has been appearing before the learned trial Court, however, attending the trial on each and every date would cause great inconvenience and hardship to the petitioner and it will also affect his work and livelihood, which demands him to constantly travel. Moreover, parity is sought with the similarly placed co-accused(s), who has been granted the relief of permanent exemption from personal appearance before the learned trial Court vide orders dated 09.04.2024 and 22.09.2025 passed by this Court in CRM-M-8528-2023 and CRM-M-53153-2025. In



support of his submissions, the learned senior counsel has placed reliance on ***Suresh Kumar and another Vs. The State of Haryana and another 2023 (2) Law Herald 1498.***

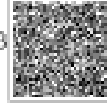
3. Notice of motion.

4. Ms. Saumya Ahluwalia, Sr. DAG, Haryana. waives service of notice on behalf of the respondent-State, and opposes the prayer made by the petitioner on the ground that keeping in view serious allegations levelled against the petitioner, he is not entitled for the exemption from personal appearance, and his presence is required during the course of trial.

5. Having heard the learned counsel for the parties and after going through the record with their able assistance.

6. The Hon'ble Supreme Court in ***S.V. Muzumdar v. Gujarat State Fertilizer Co. Ltd 2005(2) RCR (Criminal) 860***, while elucidating on the issue of exemption from appearance, observed that in such cases, the Courts have to consider whether any useful purpose would be served by requiring the personal attendance of the accused, or whether progress of the trial is likely to be hampered on account of his absence. Similarly, the Apex Court in ***M/s. Bhaskar Ind. Ltd. v. M/s. Bhiwani Denim & Apparels Ltd., 2001(4) RCR (Criminal) 137*** held that personal appearance of an accused before the Magistrate can be exempted, and that the Magistrate is empowered to allow the accused to make even the first appearance through his counsel. Speaking through Justice K.T. Thomas, the following was observed:

"14. The normal rule is that the evidence shall be taken in the presence of the accused. However, even in the absence of the accused such evidence can be taken but then his counsel must be present in the Court, provided he has been granted exemption from attending the Court. The concern of the criminal Court should



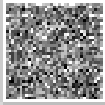
primarily be the administration of criminal justice. For that purpose the proceedings of the Court in the case should register progress. Presence of the accused in the Court is not for marking his attendance just for the sake of seeking him in the Court. It is to enable the Court to proceed with the trial. If the progress of the trial can be achieved even in the absence of the accused the Court can certainly take into account the magnitude of the sufferings which a particular accused person may have to bear within in order to make himself present in the Court in that particular case.

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17. Thus, in appropriate cases the magistrate can allow an accused to make even the first appearance through a counsel. The magistrate is empowered to record the plea of the accused even when his counsel makes such plea on behalf of the accused in a case where the personal appearance of the accused is dispensed with. Section 317 of the Code has to be viewed in the above perspective as it empowers the Court to dispense with the personal attendance of the accused (provided he is represented by a counsel in that case) even for proceeding with the further steps in the case. However, one precaution which the Court should take in such a situation is that the said benefit need be granted only to an accused who gives as undertaking to the satisfaction of the Court that he would not dispute his identity as the particular accused in the case, and that a counsel on his behalf would be present in Court and that he has no objection in taking evidence in his absence. This precaution is necessary for the further progress of the proceedings including examination of the witnesses."

7. Therefore, in view of the foregoing discussion and given the peculiar facts and circumstance of this case, the personal appearance of the petitioner before the learned trial Court is ordered to be exempted, subject to the following conditions:-

- (i) petitioner shall be represented through their counsel;
- (ii) shall not delay/stall the proceedings;
- (iii) shall not dispute his identity;



- (iv) shall have no objection if the prosecution evidence is recorded in his absence but in the presence of his counsel;
 - (v) shall appear before the Court as and when required; and
 - (vi) any other condition, which the Court below may impose.
8. Petition stands disposed of accordingly.
9. Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

01.12.2025
Kavita

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