

CrMMO No. 17 of 2010

20.1.2010 Present: Mr. Rahul Mahajan, counsel for the petitioner.
Mr. Rajesh Mandhotra Dy. A.G. for the respondent.

The petitioner is aggrieved of order dated 4.1.2010 passed by the Learned Special Judge, Una, in SC/ST No. 2/2009. The petitioner is facing trial in connection with FIR No. 24/08 dated 8.12.2008, under Sections 447, 448 IPC and under Section 3(2) (v) of the Prevention of SC& ST Act, registered with Police Station, Amb. According to the petitioner, he has been appearing before the concerned court on all dates except 4.1.2010 when also an application for exemption on medical ground was moved which stands rejected in terms of the impugned order.

Mr. Rahul Mahajan has invited my attention to a decision rendered by the Hon'ble Apex Court in *AIR 2008 SC 251* (para 50 onwards). No doubt, medical certificate has not been annexed with the application but the fact that the petitioner was suffering from fever was clearly mentioned in the application. As such, the Court was not right in straightway issuing non-bailable warrant particularly when on previous occasions the petitioner has been appearing punctually before the Court. The impugned order dated 4.1.2010 is set-aside and the petitioner is directed to appear before the appropriate Court on **30.1.2010**. His presence on 4.1.2010 is declared to be exempted. Petition stands disposed of, so also the pending application.

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20th January, 2010
(vs)

(Sanjay Karol),
Vacation Judge.