

ORDER BELOW EXH.26

1. Accused have filed present application for permanent exemption.
2. It is contention of accused that, the case is filed under section 138 of the negotiable instruments act. Accused no. 2 is working at Mumbai in Fire brigade department. It is not possible for the accused no. 2 to avail leave on every date and attend the court. Hence, prayed to allow the application. Hence prayed to allow the application.
3. The complainant has filed say overleaf the application and resisted the same. It is the contended that, the documents filed on record are not as per contentions in the application. So as to prolong the matter the present application is filed and prayed to reject the same.
4. Heard both the advocates. I have gone through the proceedings. The plea is recorded and cross examination of the complainant is not yet started. On perusal of documents it can be seen that, accused no. 2 is employee of Municipal Corporation of Grater Mumbai Fire Brigade. It can be seen that, he is a permanent employee and working as Fireman. It is pertinent to note here that, service of accused no. 2 is service based and 24 hours duty. The department also works as aid to the disaster Management. The service of the accused no. 2 being public service based, presence of accused on the duty for 24 hours is just and necessary. In these circumstances it would not be

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possible to accused no. 2 to attend the Court on every date and that too from Mumbai which so far from Atpadi.

5. Considering the nature of the offence, question of identification of accused for the trial would not arise. Moreover, the advocates for the accused is ready to conduct the matter in absence of the accused. No prejudice would cause to the complainant in case the application is allowed.

6. Considering all these facts and circumstances I find substance in the arguments and contentions raised in the application of accused no. 2. Accordingly, I proceed to pass following order.

ORDER

1. Application at Exh.26 is allowed.
2. Accused no. 2 is hereby Permanently Exempted till further orders.
3. Accused no. 2 shall appear before the Court as and when required by the Court.
4. Advocate for accused no. 2 shall conduct the matter positively on every date and shall not adjourned the matter on the ground of absence of accused for trial.

(R.B.Kulkarni)

Date- 30/07/2024

Jt. Judicial Magistrate F.C., Atpadi.