

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

CRM-M-41608 of 2018.
Decided on:-September 28, 2018.

Paramjit Kaur.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. J.S. Bedi, Senior Advocate with
Mr. Sonpreet Singh Brar, Advocate
for the petitioner.

Mr. Tanvir Joshi, Assistant Advocate General, Punjab.

HARI PAL VERMA, J. (ORAL)

Petitioner Paramjit Kaur has filed the present petition under Section 482 Cr.P.C. seeking permission to travel abroad i.e. Abu Dhabi, Thailand, Dubai, London Europe from 1st October 2018 till 31st January, 2019 in case FIR No.120 dated 17.09.2010 under Sections 419, 465, 467, 468 and 471 IPC registered at Police Station Sadar Malout, District Sri Muktsar Sahib. Prayer has also been made for setting aside the order dated 01.09.2018 (Annexure P-5), whereby the application for grant of permission to go abroad was declined by the trial Court.

Learned senior counsel for the petitioner has argued that the aforesaid FIR was registered at the behest of Gurtej Singh, who is a step-brother of the petitioner and various litigations including civil ones are pending between the parties. The petitioner has been associating with the proceedings and even during the pendency of the trial in this case, she was granted permission to go abroad. At no point of time, the petitioner ever violated the conditions so imposed by the trial Court while remaining abroad.

Learned senior counsel for the petitioner has drawn attention of this Court towards the order dated 24.05.2018 passed by this Court in **CRM-M-21908 of 2018** titled as ***Paramjit Kaur Versus State of Punjab***, whereby she was granted permission to travel abroad i.e. Vancouver, Canada w.e.f. 26.05.2018 to 30.06.2018. The photocopy of the extract of the passport has also been produced on record showing therein that the petitioner left for U.K. on 31.05.2018 and thereafter, she had gone to Canada, but in any case, she returned to India on 19.06.2018. The photocopy of the extract of passport is taken on record.

Learned senior counsel for the petitioner has also submitted that the proceedings in the trial of present case as well as in civil litigation have already been stayed by this Court. Therefore, no prejudice is going to be caused to the complainant in any manner in the event of permission to go abroad for the aforesaid period is granted to the petitioner.

On the other hand, learned State counsel, on instructions from ASI Gurlal Singh, states that no doubt there are various litigations pending between the parties, but as the trial in the case is at an advanced stage and is

fixed for recording statement of accused under Section 313 Cr.PC, there is a possibility that the petitioner may not return leading the whole trial to its futility. Therefore, she does not deserve the relief claimed in the present petition.

I have heard learned counsel for the parties.

It is not in dispute that even prior to seeking present permission to go abroad from this Court, the request of the petitioner to go abroad was declined by the trial Court vide impugned order dated 01.09.2018. However, the same Court i.e. trial Court had earlier allowed the petitioner to go abroad for the purpose of accompanying her son to Bulgaria from 20.07.2018 to 27.07.2018 and after having visited the said country, the petitioner returned to India on 25.07.2018 and joined the proceedings of the case.

No doubt, the trial in the case is at an advanced stage, but when the proceedings of the case have been stayed by this Court in other connected litigation between the parties, no prejudice would be caused to the complainant. Therefore, considering the fact that the request of the petitioner to go abroad has consistently been allowed by the trial Court as well as by this Court and at no point of time, it has been reported that she has misused the concession, this Court finds that the conduct of the petitioner cannot be doubted and she deserves to go abroad, of course on certain conditions.

In ***Srichand P. Hinduja Versus State through CBI, New Delhi 2002(3) RCR (Criminal) 186***, Hon'ble Supreme Court has permitted the appellant-therein, as an interim measure, to go abroad by laying down certain conditions including execution of a bond with a bank guarantee and it was

ordered that the appellant-therein shall remain present before the Special Judge as and when their presence is needed. A rider was also imposed that in case there is any violation of the conditions, it would be open to the Court to pass an appropriate order for cancellation of bail of the appellant and this interim measure was specified upto a particular date.

Similarly, in *Arun Kapoor Versus State of Haryana 2004(4) RCR (Criminal) 594*, this Court has considered the prayer for release of passport, as the petitioner-therein had to go abroad in connection with the business of the company. An application was moved before the trial Court for release of passport, but the same was declined. Even the criminal revision petition filed against the order passed by the Magistrate was also dismissed. However, this Court, on a petition filed under Section 482 Cr.P.C., while relying upon the case of *Srichand P. Hinduja's case (supra)* has observed as under:

"10. It is not in dispute that the petitioners are having business commitments to fulfill and they have to go abroad for business dealings. It is also not in dispute that the petitioners do go abroad for business dealings. It is also not in dispute that contracts have to be procured from abroad to carry out the work here. Besides, the petitioners had earlier also gone abroad in terms of the permission granted by this Court on 1.8.2003 and they have returned and re-deposited their passports.

*11. The Hon'ble Supreme Court in *Srichand P. Hinduja v. State through C.B.I., New Delhi, 2002(3) RCR (Crl.) 186 (SC): AIR 2002 Supreme Court 410* granted permission to go abroad to the accused in the said case. The case related to offences punishable under Sections 120-B and 420 Indian Penal Code as*

also under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act. In the said case also, a plea was raised that if the appellants therein were permitted to go abroad, it would affect the smooth progress of the trial and there are reasonable grounds to believe that they would not return back to India to face the trial. It was noticed, that the appellants therein were Indian Nationals at the time of registration of the FIR and thereafter they had acquired British and Swiss Nationalities. The Hon'ble Supreme Court, after considering the facts and circumstances of the case as an interim measure allowed the accused therein to go abroad subject to their furnishing adequate sureties.

12. *This Court in Brij Bhushan Singal v. Central Bureau of Investigation, 1994(3) RCR (Crl.) 498 (P&H)* which is a case where the Special Judge granted bail to accused therein but impounded his passport to prevent him from going abroad, held that it was competent to review the order under Section 482 Criminal Procedure Code and order released of the passport. Accordingly, the accused therein was permitted to go abroad and then return within four months subject to his furnishing security in the sum of Rs.25 lacs. ”

The permission to go abroad during pendency of trial should not invariably be declined unless there are reasons to believe that such permission is being sought for oblique considerations. In *Anjal Kumar @ Angel Kumar Versus State of Punjab 2010 (1) RCR (Criminal) 201*, in somewhat similar circumstances, where a person was facing the criminal trial and was declined permission to go abroad, as the accused was facing trial in case under Section

420, 406, 403, 34 IPC, the accused was allowed to go abroad and the Court observed as under:

“3. *Heard.*

The cardinal principle of criminal jurisprudence, as applies in this country, is that every person is innocent till proved guilty and further that the Court presumes a human being to behave normally and this presumption continues till such time it is proved to the contrary. The fundamental right or civil right cannot be curtailed only if a criminal case is pending against a person.

4. *In totality of the facts and circumstances of the case and in view the ratio laid down in **Naginder Singh Rana v. State of Punjab, 2004(3) RCR (Criminal) 912**, the order declining permission to the petitioner to go abroad does not appear to be correct. Thus, the impugned order dated 12.10.2009 is set aside. The petitioner is permitted to go abroad (Dubai/Abu Dhabi) for 5-6 days on the condition that he shall furnish security to the tune of Rs.4 lacs with one surety in the like amount to the satisfaction of the Court concerned. On the undertaking, as mentioned above, and on furnishing the security, as is ordered to the satisfaction of the Court concerned the petitioner shall be allowed to go abroad. He is directed to return to India on 7.11.2009.”*

In view of the observations made hereinabove and in order to avoid any apprehension, as put forward by learned State counsel, a direction is issued to the trial Court/Duty Magistrate to permit the petitioner to go abroad, for which, the petitioner shall execute a personal bond in a sum of Rs.5 lakh with an undertaking that she would report back on or before 15.02.2019. The trial Court/Duty Magistrate may further impose any other

condition which it may deem fit and proper in the peculiar facts and circumstances of the case.

Accordingly, the present petition is allowed and the impugned order dated 01.09.2018 passed by learned trial Court is set aside.

(HARI PAL VERMA)
JUDGE

September 28, 2018
Yag Dutt

Whether speaking/reasoned: Yes

Whether Reportable: No