

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

CRM-M-No. 15112 of 2015 (O&M)

Date of decision: -16.7.2015.

Brigadier (Retd.) Satish Chander Kuthiala

....Petitioner.

vs.

State of Punjab

.....Respondent.

CORAM: - HON'BLE MR. JUSTICE R.P.NAGRATH

Present: Mr. Bhanu Pratap Singh, Advocate for the petitioner.
Mr. Gurveer Sidhu, AAG, Punjab

R.P.Nagrath, J. (Oral)

Petitioner has invoked the inherent jurisdiction of this Court seeking modification of the order dated 6.4.2015 passed by the Judicial Magistrate Ist Class, Hoshiarpur (Annexure P-3) whereby, the learned Magistrate while granting permission to the petitioner for going abroad directed him to furnish Bank guarantee of Rs. 25.00 lacs.

Learned counsel for the petitioner submits that the petitioner has retired as a Brigadier from Indian Army and it is not possible for him to furnish Bank guarantee of such a huge amount.

During the pendency of the present petition, petitioner filed an application (Annexure P-2) for attending the pre-wedding ceremonies of his grand daughter from 15.4.2015 to 15.6.2014 but the said period has since expired. It is submitted that some of the ceremonies have been held and some are yet to be performed. Therefore, now the prayer made by learned counsel for the petitioner is that the petitioner may be permitted to go abroad for two months for attending the ceremonies.

Notice to respondent No. 2 was sent but it seems that he is evading service. As per note of Registry, notice issued to respondent No. 2 was received back with the report that the house was found locked.

Learned State Counsel, on instructions, from ASI Rajwinder Singh, submits that the charges were framed on 10.9.2013 by the trial Court but so far no witness has been examined and next date for examination is 20.8.2015.

The purpose basically is that there should be no delay in disposal of the case. For that purpose, the petitioner would have to give an undertaking to the trial Court that the evidence may be recorded in his absence and in the presence of the counsel.

In view of the above, the instant petition is partly allowed granting permission to the petitioner to go abroad upto 20.9.2015 with the following conditions: -

1. that the petitioner would appear before the trial Court on 21.9.2015 to mark his presence;
2. that he shall furnish the Bank guarantee to the tune of Rs. 8.00 lacs instead of Rs. 25 lacs as ordered by the trial Court and in case he does not return on time, amount of guarantee be paid to the complainant;
3. that he will furnish the personal and surety bonds to the tune of Rs. 1.00 lac with one surety of the like amount and also furnish the original title deed of some immovable property, to be kept on record of the trial Court;
4. that he will furnish an undertaking before the trial Court that the evidence be recorded in his absence and in the presence of the his counsel and he would not dispute his identity and after his return when he appears in the trial Court on 21.9.2015, he will also surrender his passport to the trial Court; and

5. that failing his counsel to appear or seeking adjournment while recording evidence and cross-examination of the witnesses, the concession being granted by this order shall stand revoked and trial Court would issue his arrest warrants

It is also directed that if the same prayer is made in future, the trial Court would decide the same expeditiously.

Learned counsel for the petitioner submits that the revision against the summoning order under Section 319 of the Criminal Procedure Code is pending before the Sessions Court since 15.5.2012. It is directed that the revisional Court would decide the revision petition expeditiously and preferably within a period of two months from the date already fixed.

Disposed of.

(R.P.NAGRATH)
JUDGE

16.7.2015
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