

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

**CRM-M-21879 of 2015
Date of Decision: July 13, 2015**

Paramjit Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Puneet Bali, Senior Advocate
with Mr. H.S. Oberoi, Advocate
for the petitioner.

FATEH DEEP SINGH, J.

The petitioner-Paramjit Kaur, who is permanent resident of Germany, an NRI was facing prosecution in case registered by way of an FIR No.170 dated 19.10.2007 under Sections 406,420 and 120B IPC with Police Station, Division No.2, Jalandhar she moved an application Annexure P/9 seeking permission from the Court of learned JMIC, Jalandhar for visiting her country for medical treatment as she was a heart patient and was undergoing treatment at Frankfurt and has given an undertaking that she will not avoid the trial and would appear before the Court as per its directions. It is through impugned order dated 4.3.2014 Annexure P/10, the learned Magistrate declined her prayer. In appeal before the Court of learned Additional Sessions Judge, Jalandhar, through impugned order dated 19.5.2014 Annexure P/12 the learned Court though set aside the orders in question but held that:-

_ _ _ _The charge is yet to framed, therefore,
after framing of the charge, the learned trial
Court is well competent to consider the
application afresh in terms of the
pronouncement of Honourable Apex Court in
case Jai J. Lalita_ _ _ _ _

The same is the subject matter of challenge before this Court in this petition in terms of Section 482 Cr.P.C.

Learned counsel for the petitioner at the very onset of his submissions had led a lone prayer that by denying her right to treatment the life of the petitioner has been put to jeopardy. Appreciating the submissions, admittedly, the petitioner is a non-resident Indian and her claim for medical treatment is well supported by medical evidence placed by her before the learned trial Court. Copy of which has been placed on these records as well substantiates this fact. The Courts in endeavour to do justice needs to ensure that they do not fall prey to such hyper technicalities which would have its adverse repercussions on a litigant. In this era of advancement of justice, the Courts need to be sensitive to the human requirements and to show compassion rather than to be obtrusive and deny such a legitimate prayer. The petitioner if denied the medical treatment which she is already undergoing would tantamount to clearly denial of her legitimate and valuable right to life. The fact as has sought to be argued that the learned Appellate Court has placed a rider that it is after framing of charges the learned trial Court is well competent to consider application afresh certainly would be too preposterous and might have its own unsavoury results for the petitioner. Thus, it could have been in the interest of justice if the learned Appellate Court would have ordered immediate framing of charges and, thereafter, for the Court to have considered this prayer rather than infinitely postponing it till after framing of the charges. The petitioner apparently is not a principal accused in this matrimonial dispute and it would facilitate the ends of justice, if the trial Court prepones the matter and passing orders on framing of charges within seven days, after framing of charges, if eventuality arises and thereafter, to dispose off the request of the

petitioner to this effect same day.

The instant petition is, thus, allowed in those terms.

Parties to appear before the concerned Court.

(FATEH DEEP SINGH)
JUDGE

July 13, 2015
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