

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

CRM-M-33160 of 2015.

Decided on:-31.10.2015.

Urvi Aggarwal.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

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

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Jayant K. Sud, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

Mr. Dishant Tuteja, Advocate
for the complainant.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.PC is for quashing of order dated 21.8.2015 passed by learned Judicial Magistrate 1st Class, Rohtak, whereby the application filed by the petitioner for the release of her passport, has been dismissed.

Learned counsel for the petitioner contends that the petitioner is resident of Delhi and wanted to pursue her Masters in Business Management Course from Esade University, Barcelona, Spain. She has been falsely implicated in FIR No.32 dated 3.2.2015 under Sections 420, 406, 506 and

120-B read with Section 34 IPC registered at Police Station, Urban Estate, Rohtak.

Earlier, the petitioner had approached this Court challenging the order dated 6.5.2015 passed by learned Magistrate and order dated 20.5.2015 passed by learned Additional Sessions Judge, Rohtak, whereby she was declined permission to leave the country as the aforesaid FIR was registered against her. However, this Court vide order dated 29.5.2015 passed in CRM-M-17854 of 2015 had allowed her petition and accordingly the Magistrate was directed to pass an appropriate order regarding return of passport and to permit the petitioner to go abroad. The petitioner was directed to execute the personal bond in the sum of Rs.20 lacs with an undertaking that she would report back on or before 1.9.2015. The trial Court/Illaq Magistrate/Duty Magistrate was further empowered to impose any other condition which it may deem fit and proper in the peculiar facts and circumstances of the case. On completion of her examinations and on her return from abroad, she was required to return back her passport according to the directions of the trial Court.

Pursuant to the order dated 29.5.2015, the petitioner had visited abroad and returned back to India. She has surrendered her passport to the trial Court. As on date, the passport is in the custody of the trial Court. Thereafter, the petitioner has moved an application before the trial Court for the release of the passport on Superdari and further to grant her permission

to travel to NUS Business School, Singapore to attend 21 days General Management Programme from 30.8.2015 to 19.9.2015. Since the permission was declined, the petitioner could not attend the said programme.

Now, the petitioner intends to go abroad to pursue General Management Programme commencing from 23.11.2015 to 4.12.2015 in Singapore for which she has already booked her air tickets, which are attached as Annexure P-9. As per the air tickets, the petitioner has to leave the country on 15.11.2015 to attend the said course.

Learned counsel for the petitioner contends that the impugned order dated 21.8.2015 passed by learned Magistrate, in fact, runs contrary to the spirit of the order dated 29.5.2015 passed by this Court in CRM-M-17854 of 2015, wherein this Court has laid down sufficient conditions including the execution of the personal bond for an amount of Rs.20 lacs as well as undertaking that she would report back before the date fixed by this Court. He further submits that pursuant to order dated 29.5.2015 passed by this Court, the petitioner attended the course, returned back and had surrendered the passport. Therefore, the bonafide on the part of the petitioner to face the trial, if required, is fully established. The petitioner is ready to cooperate with the investigation and will not hamper the investigation in any manner. The order dated 21.8.2015 passed by learned Magistrate, whereby she has been declined her passport, is too harsh and unnecessarily restricts her movement, merely because an FIR is registered against her. The FIR was

registered on 3.2.2015, but till date, the police has not completed the investigation. The petitioner has not created any obstruction in the investigation, rather, has come forward to cooperate in the investigation and, rather immediately after coming to know about the registration of the FIR, she has returned back from Barcelona.

Learned counsel for the petitioner has further submitted that the petitioner is ready to comply with any other condition which this Court may deem necessary and reasonable in the peculiar facts and circumstances of the case.

Mr. Dishant Tuteja, Advocate has put in appearance and filed the Memo of Appearance on behalf of the complainant, which is taken on record. He has taken a preliminary objection that the petitioner was required to move to the Court which has granted the anticipatory bail to her for the purpose of release of her passport on Superdari as envisaged under Section 438(2) Cr.P.C. The petitioner being a director of the company is equally responsible, as the other directors of the company. She does not deserve to get her passport released on Superdari as there is possibility that she may not return to India.

Similarly, learned State counsel has taken the objection that the present petition is not maintainable as the order dated 21.8.2015 passed by learned Magistrate is subject to revision petition before learned Sessions Judge.

I have heard learned counsel for the parties.

This Court while deciding CRM-M-17854 of 2015 on 29.5.2015 had allowed the petition filed by the present petitioner whereby she had challenged the denial of her passport and sought permission to go abroad. The relevant part of the order dated 29.5.2015 passed in CRM-M-17854 of 2015 reads as under:

“In view of the observations made here-in-above and in order to avoid any apprehension, as put forward by learned State counsel, a direction is issued to the trial Court/Illaq Magistrate/Duty Magistrate to pass an appropriate order to return the passport of the petitioner and shall permit her to go abroad, for which, the petitioner shall execute a personal bond in a sum of Rs.20 lacs with an undertaking that she would report back on or before 1.9.2015. The trial Court/Illaq Magistrate/Duty Magistrate may further impose any other condition which it may deem fit and proper in the peculiar facts and circumstances of the case. It is made clear that after completion of her examinations, on her return from abroad, the petitioner shall return back her passport, as per the directions of the trial Court/Illaq Magistrate/Duty Magistrate.”

There is no denial of the fact that pursuant of the aforesaid order, the petitioner has gone abroad and has returned back. She has reported her return to the trial Court and has surrendered the passport. Therefore, her bonafide cannot be doubted.

Merely because the FIR has been registered against the

petitioner, this Court feels that the movement of the petitioner cannot be restricted beyond a particular reasonability. The petitioner has booked her air tickets on 15.11.2015 to attend the NUS Executive Education, General Management Programme (Annexure P-10) from 23.11.2015 to 4.12.2015.

The argument of learned State counsel that against the order dated 21.8.2015 passed by learned Magistrate, the present petition is not maintainable, cannot be accepted as this Court while invoking the provisions of Section 482 Cr.PC can pass an order to meet the ends of justice and the present is a case which really attracts the said provisions. By virtue of impugned order dated 21.8.2015 passed by learned Magistrate, the movement of the petitioner is unnecessarily restricted merely because an FIR was registered against the directors of the company. The impugned order dated 21.8.2015 is against the spirit of order dated 29.5.2015 passed by this Court in CRM-M-17854 of 2015 which was passed to meet such like situation. Interestingly, the said order is not subject matter of appeal or revision before any other Court or Forum. Therefore, this Court feels that the ends of justice would be met fully in case the petitioner is allowed to attend the aforementioned course and her passport is released to her.

In view of the above, the present petition is allowed and the impugned order dated 21.8.2015 passed by learned Judicial Magistrate 1st Class, Rohtak is set aside.

Accordingly, the learned Magistrate is directed to release the

passport of the petitioner forthwith subject to the conditions as laid down in order dated 29.5.2015 passed by this Court in CRM-M-17854 of 2015. The learned Magistrate is further empowered to impose any other condition, which may be found reasonable in the peculiar facts and circumstances of the case. However, it is made clear that the petitioner shall convince the learned Magistrate about the course, she intends to pursue along with documents. On completion of the aforesaid course, she shall return back to India and shall report back to the learned Magistrate on or before 20.12.2015 and will deposit her passport there.

October 31, 2015

Yag Dutt

(HARI PAL VERMA)
JUDGE