

CRM-M-19150-2016 (O&M)

Date of Decision : 01.06.2016

Amarjit Singh @ Jittu

.....Petitioner

versus

CBI

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. J.S. Bedi, Senior Advocate with
Mr. Gurbir Dhillon, Advocate
for the petitioner.Mr. Sumeet Goel, Advocate
for CBI.Mr. Charanjit Singh Bakhshi, Advocate
for the complainant.**M.M.S. BEDI, JUDGE (ORAL)**

The petitioner is facing trial as an accused along with others, being responsible for the murder of Rattan Singh. The petitioner had been granted the concession of pre-arrest bail after the investigation had been taken up by the CBI. He had moved an application for leaving India to visit USA from 15.06.2016 to 14.07.2016 to accompany his family members to meet relatives with a request for release of his passport. The said application has been dismissed vide order dated 13.05.2016 by the trial Court.

Counsel for the petitioner has submitted that the petitioner is to accompany his family members and that he will not absent himself on any date of hearing.

Counsel for the CBI and counsel for the complainant have intervened to inform this Court that the next date of hearing before the

trial Court is 08.07.2016. Since the presence of the petitioner is not required by the trial Court during the month of June, 2016 till 08.07.2016 and the petitioner has been facing trial with effect from 2013, there is an apprehension on behalf of the complainant that the petitioner is not likely to return from USA and will abscond in case permitted to leave India.

Counsel for the petitioner has submitted a property statement indicating that it is not feasible for the petitioner to leave his entire property, mentioned in the list, which is valued more than Rs.12 crores.

Mr. Sumeet Goel, Advocate appearing for CBI has contended that there are general and vague pleas raised by the applicant to leave India and that he has never visited his relations in USA earlier and he is accused of a case under Section 302 IPC and that chances of his returning to India are remote.

I have considered all the facts and circumstances of the present case. The petitioner had been granted concession of pre-arrest bail by a Coordinate Bench of this Court vide order dated 09.05.2014. It is not the case of the complainant or the State that he has ever misused his liberty while on bail.

Striking a balance between the individual liberty and presumption of an accused, being innocent, till proved to be guilty and the simultaneous right of the State agency to ensure that the accused is present during the course of trial and at the time of adjudication of the matter, I am of the considered opinion that in case, the accused is able to

appear on the date of hearing after visiting any destination abroad without disturbing the proceedings, the liberty to go abroad should not generally be curtailed, unless and until, there are some extraordinary exceptional circumstances. No straight jacket formula can be laid down, as to in what circumstances an accused should be permitted to leave India during the course of trial. Since the petitioner has given an undertaking to return back before the next date of hearing and attend the proceedings on 08.07.2016, he can be granted permission to leave India subject to the condition which would be sufficient to ensure his return.

The petition is allowed. It is ordered that petitioner will be permitted to leave India by the trial Court by imposing any reasonable conditions including a condition that petitioner will deposit a sum of Rs.30 lacs with the trial Court and furnish personal bonds/surety bonds to its satisfaction with an assurance that he would return prior to 08.07.2016 and would attend the proceedings on said date. In case the petitioner fails to comply with the said conditions, besides the forfeiture of the amount of personal bonds/surety bonds to the State, the complainant - Harjinder Singh, would be entitled to be disbursed the sum of Rs. 30 lacs deposited by the petitioner. In case of failure of the petitioner to return, the cost of securing his presence through Interpol by CBI, would be recoverable from the property of the petitioner.

(M.M.S. BEDI)
JUDGE

01.06.2016
Neha