

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

CRM-M No.21719 of 2016
Date of decision: 27th July, 2016

Jasmer Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Paras Talwar, Advocate for the petitioner.

Mr. J.S. Brar, Asstt. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

This is a petition under Section 482 Cr.P.C. moved by the petitioner Jasmer Singh who happens to be an accused in case bearing FIR No.275 dated 27.11.2011 under Sections 323/506/356 IPC pertaining to Police Station Shahakot, District Jalandhar wherein he has challenged an order dated 06.06.2016 (Annexure P11) passed by the Court of learned Judicial Magistrate 1st Class, Nakodar whereby the Court below has dismissed an application of the prosecution/complainant for cancellation of his bail but declined him his prayer on his application for permission to go abroad.

Heard Mr. Paras Talwar, Advocate for the petitioner, Mr.J.S. Brar, Asstt. Advocate General, Punjab for the respondent/State and Mr.Sanjay Tangri, Advocate for the complainant.

As is there and is not in any manner denied the petitioner Jasmer Singh was adopted by the complainant Rajinder Kaur and her husband Ujjal Singh (now deceased) and as a consequence of which the petitioner had settled in Canada. It is during the course of events the adoptive mother has lodged the FIR in question (Annexure P1) against the petitioner and which is pending trial before the Court of learned Judicial Magistrate 1st Class, Nakodar. It is in these proceedings two separate applications one by the complainant side/prosecution and the other by the accused were moved which were disposed off jointly through the impugned orders. Though on behalf of the complainant, Mr.Tangri has laid much emphasis and vehemence on the fact that earlier on one occasion the petitioner had gone abroad without permission of the Court and thus needs to be denied this concession as the same is well reflected even from the impugned orders as well. The same has been sought to be rebutted with much elance by learned counsel for the petitioner Mr.Bipan Ghai submitting that since the petitioner is ordinarily resident of Canada and had been earlier going and coming with permission to Canada and therefore there is no likelihood of his absconding from justice and has sought to call upon this Court for showing compassion.

Appreciating the rival submissions it is by no means differed over the fact that the petitioner is a resident of Canada and has his home too in district Jalandhar (India). It is also not put to question that the

petitioner had been visiting Canada during the course of trial and at no point of time had ever violated the conditions granting him permission to go abroad or has ever tried to run away from the law. Learned State counsel has readily acceded to this situation. Apparently what is reflective from the documents placed on record (Annexure A2 to A10) that the complainant happens to be the adoptive mother and apparently there is some sort of property dispute between the two sides which has led to this bad taste between the two. The law is for amelioration of the masses and not to subvert their legitimate rights and essentialities. It is not a case where the allegations against the petitioner are of any heinous nature which could prevail upon this Court of his likelihood of running away from the Court. Purely because the petitioner is an accused before a Court of law he cannot be denied his otherwise legitimate rights to carry on with his life and avocation else it would be in utter violation of fundamental rights of a citizen. From the previous conduct and the stand of the petitioner nothing is suggestive that allowing such a relief to the petitioner would in any manner circumvent the due process of law or in any manner put the trial to hold. Apparently there is no question over the very identification of the petitioner and even trial can proceed ahead in his absence in the presence of his counsel. The impugned order in itself reflects that the Court below has taken one of the events whereby the petitioner has gone abroad to Maldives in February to be flagrant violation and has denied his prayer thus clearly a prejudicial approach

where justice cannot be meted out. It would meet the ends of justice if the prayer of the petitioner is allowed and necessary permission is granted to him to visit abroad/the country of his choice/Canada for a period of six months w.e.f. the day he furnishes bonds in trial Court. However, the same shall be subject to furnishing of two bail bonds in the sum of ₹10 lacs each with two sureties each of the like amount with the undertaking that before leaving he will move the trial Court that the trial may continue in his absence and in the presence of his counsel so that the trial is not put to hold by the absence of the petitioner and not to raise any question over his identity and undertaking further to return back to this country to face the trial immediately after the prescribed period is over.

The instant petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

July 27, 2016
rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No