

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

CRM-M-34897-2016
Date of Decision : 22.10.2016

Harmail Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. I.S. Pabla, Advocate
for the petitioner.

Ms. Simsi Dhir Malhotra, DAG, Punjab.

M.M.S. BEDI, JUDGE (ORAL)

The petitioner is facing trial in a case registered at the instance of his deceased brother's wife, namely Jasvir Kaur, alleging that the petitioner, in connivance with his co-accused, had fraudulently transferred the joint property of Sewak Singh (deceased), brother of the petitioner, in their favour and filed a suit for partition and sent the summons fraudulently on the wrong address of the complainant, whereas Sewak Singh, with his family, used to reside in Canada.

The allegations against the petitioner is that he had sold the shops of Sewak Singh, but no money was given to the complainant.

Challan has already been presented. The petitioner had filed an application for permission to leave India during pendency of the trial for a period of six months. The said application of the petitioner has been dismissed by the trial Judge.

The dispute regarding the property of Sewak Singh has to be decided by the revenue authorities. The petitioner has also got right and interest in the property situated in India.

Striking a balance between the right of the prosecution to secure the presence of each accused and the presumption of an accused during the trial, being innocent till convicted, I deem it appropriate to allow the petitioner to leave India as he is stated to be permanent resident of Canada.

The petitioner, who is present in the Court today, has furnished an undertaking that he would return to India by 28.02.2017. His undertaking has been kept on record.

In view of the abovesaid circumstances, the petition is allowed. The permission is granted to the petitioner to leave India till 28.02.2017, subject to his depositing a sum of Rs. 5,00,000/- in the shape of a bank draft in the name of the complainant to be furnished before the trial Court, besides furnishing personal bond for a sum of Rs. 10,00,000/- along with one surety of the like amount to the satisfaction of the trial Court. In case the petitioner does not return back to India by 28.02.2017, it will be open to the complainant to receive the amount of bank draft of Rs. 5,00,000/-, besides the liability of the petitioner to pay the amount of personal bond to the State.

(M.M.S. BEDI)
JUDGE

October 22, 2016
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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No