

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc. No.M-3887 of 2016

Date of Decision: March 04, 2016

Anamika Yadav wife of Sh.Amit LambaPetitioner

Versus

State of HaryanaRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Jai Vir Yadav, Advocate for the petitioner.

Mr.Deepak K.Grewal, Deputy Advocate General,
Haryana.

<><><>

TEJINDER SINGH DHINDSA, J.

Prayer in the present petition filed under Section 438 of the Code of Criminal Procedure is for grant of permission to the petitioner to proceed abroad i.e. to the United Arab Emirates (UAE). Petitioner also assails the order dated 18.1.2016, Annexure P3, passed by the learned Additional Chief Judicial Magistrate, Rohtak in terms of which such prayer has been declined.

2. It has been submitted on behalf of the petitioner that she has been falsely implicated along with her husband Shri Amit Lamba in FIR No.257 dated 2.6.2014, under Sections 420, 406, 506, 120-B of the Indian Penal Code, registered at Police Station Civil Lines, Rohtak. Order dated 5.11.2015 passed by this Court

in Criminal Misc.No. M-34934 of 2015, Annexure P2, granting concession of anticipatory bail to the petitioner in FIR No.257 dated 2.6.2014 had been adverted to, to contend that the main accused is Amit Lamba and against whom there were allegations made by the complainant therein of having mis-appropriated a sum of ₹3,50,000/- on the pretext of making an investment in a Company in UAE. It is further submitted that the petitioner is a house-wife and has small children i.e. Rahi Yadav i.e. son and Lesha Yadav, daughter who are admitted to a School in UAE. Learned counsel would argue that the husband of the petitioner is residing in UAE and his business interest is such that he has to visit different places and as such, cannot remain present in the house to look after and take care of children. It has also been argued that the impugned order dated 18.1.2016, Annexure P3, passed by the learned Additional Chief judicial Magistrate, Rohtak cannot sustain as it is violative of the right of the petitioner to go abroad as the same would be part and parcel of the personal liberty of the petitioner enshrined under Article 21 of the Constitution of India. Reliance has also been placed upon orders passed by this Court in **Naginder Singh Rana v. State of Punjab, 2004(3) RCR (Criminal) 912**, **Jagtar Singh v. State of Punjab and another, 2004(4) RCR (Criminal) 521** and **Anjal Kumar @ Angel Kumar v. State of Punjab and another, 2010(1) RCR (Criminal) 201**.

Further argued that the observations contained in the impugned order to the effect that the petitioner would not return back are totally unfounded as the petitioner has her roots in India

and even her in-laws have property situated in India.

3. Having heard learned counsel for the parties at length and having perused the pleadings on record, this Court is of the considered view that the prayer of the petitioner seeking permission to go abroad cannot be accepted.

4. During the course of arguments, it has gone uncontroverted that apart from FIR No.257 dated 2.6.2014 in which the present petitioner is also an accused along with her husband, there are two other FIRs registered against her husband Amit Lamba i.e. FIR No.214 dated 10.6.2014, under Sections 420, 347, 348, 120-B of the Indian Penal Code, registered at Police Station Tilak Marg, New Delhi on the complaint of one Vivek Singh Bishnoi and FIR No.205 of 2005, registered at Police Station Parliamentary Street at Patiala House Courts, New Delhi under Section 380 of the Indian Penal Code. Husband of the petitioner is stated to be evading the process of law and even in FIR No.257 dated 2.6.2014, his petition seeking concession of pre-arrest bail has been dismissed by this Court and now proclamation proceedings stand initiated.

5. There would be no quarrel with the cardinal principle of criminal jurisprudence that every person is innocent till proved guilty and further that the Courts would presume a human being to behave normally and such presumption continues till such time concrete/relevant material is brought on record to show that he/she shall not behave in a normal fashion. It is also well settled that a fundamental right or civil right cannot be curtailed only on account of a criminal case pending against such person.

6. However, the facts of the present case are peculiar. The two minor children of the petitioner are studying in a school in UAE. Husband of the petitioner is currently stationed in such country. Husband, namely, Amit Lamba is involved in a number of criminal proceedings, the details of which have been noticed hereinabove and he has chosen to evade the process of law and is not joining investigation. It is not the case of the petitioner that there is any marital discord between them. Petitioner herself is one of the co-accused in FIR No.257 dated 2.6.2014. Under such circumstances, the apprehension voiced in the impugned order dated 18.1.2016 at Annexure P3 that if permission is granted to the present petitioner she may also abscond, is not without basis. The judgments cited by learned counsel for the petitioner are distinguishable as the fact situation obtaining in the present case is clearly distinct.

7. This Court does not find any infirmity in the impugned order dated 18.1.2016 passed by learned Additional Chief Judicial Magistrate, Rohtak at Annexure P3.

8. For the reasons recorded above, present petition is dismissed.

March 04, 2016

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether referred to Reporter? (Yes/No)