

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-5825 of 2016

Date of Decision: 24.02.2016

Ms. Urvi Aggarwal

...Petitioner(s)

Versus

State of Haryana

...Respondent(s)

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. Adhiraj Thind, Advocate for
Mr. K.S. Nalwa, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl.A.G., Haryana.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 482 CrPC is for quashing of order dated 17.12.2015 (Annexure P-11) passed by learned Judicial Magistrate Ist Class, Rohtak, whereby her prayer for release of passport has been declined.

Learned counsel for the petitioner contends that this is third round of litigation for the petitioner, as earlier also, similar petitions i.e. CRM-M-17854-2015 followed by CRM-M-33160-2015 were filed on behalf of the petitioner for the similar relief as prayed for in the present petition and the same were allowed, setting aside the impugned orders passed therein. He further submits that the petitioner has never violated the conditions laid

down in the aforesaid orders passed by this Court and has always reported back, as directed.

Learned State counsel has argued that since the petitioner is one of the directors of the accused-company, there is possibility that she may not return back to India in case she is allowed to leave India.

I have heard learned counsel for the parties and perused the impugned order.

This Court vide order dated 29.5.2015 passed in CRM-M-17854-2015 *Urvi Aggarwal v. State of Haryana* observed 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.

Similarly, in CRM-M-33160-2015 *Urvi Aggarwal v. State of Haryana*, for the same relief, this Court while allowing the petition observed as under:-

“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.”

A perusal of the above referred orders would reveal that the petitioner who was earlier a student has now become an entrepreneur and therefore, she is required to travel abroad very frequently. The tone and tenor of the earlier orders are very clear and there is hardly any ambiguity in the same. It seems that the learned Magistrate has not considered the same in true legal spirit and rather has passed the impugned order in a mechanical and casual manner. The rejection of the prayer of the petitioner for release of her passport on the ground that the matter is under investigation, hardly justifies the impugned order, more particularly when the petitioner has gone abroad and has

returned back in the past also and duly surrendered her passport. Thus, she has fully established her *bona fide*. Therefore, considering the fact that the petitioner is a young entrepreneur and has not hampered or avoided the investigation in any manner, merely because an FIR is registered against her, her movement cannot be restricted, otherwise, the same would result in violation of Articles 19 and 21 of the Constitution of India. Learned Magistrate has failed to appreciate the previous orders passed by this Court and the manner in which the impugned order has been passed cannot be approved.

In view of the above, the present petition is allowed and the impugned order dated 17.12.2015 passed by learned Judicial Magistrate Ist Class, Rohtak is set aside.

Accordingly, the learned Magistrate is directed to pass an appropriate order to return the passport of the petitioner and 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 to learned Magistrate on or before 01.07.2016. Learned Magistrate may further impose any other condition which he may deem fit and proper in the peculiar facts and circumstances of the case.

February 24, 2016
AK

(HARI PAL VERMA)
JUDGE