

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

**CRM-M-2317 of 2017
Date of decision : 14.11.2017**

Jagjit Singh

.....Petitioner

v.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. B.S. Rana, Senior Advocate with
Mr. Sahil Khunger, Advocate, for the petitioner

Mr. Sidakmeet Sandhu, AAG, Punjab

SHEKHER DHAWAN, J.

Present petition under Section 482 Cr.P.C. is for quashing of order dated 2.11.2016, passed by the learned Judicial Magistrate Ist Class, Ludhiana (Annexure P-3), dismissing the application filed by the petitioner permitting him to visit abroad for business purpose.

Learned counsel for the petitioner contended that the petitioner has business contacts abroad and he has to visit abroad quite often and impounding of passport is not as per provisions of the law and a person cannot be stopped to visit abroad though the Court may impose certain conditions viz. seeking prior permission to visit abroad.

Learned counsel for the petitioner further contended that the petitioner is ready to furnish the surety bond to the satisfaction of the Court in case his passport is ordered to be released.

Learned State counsel while arguing on this point contended that

the petitioner is involved in some more criminal cases and his arrest was procured by the State after putting great effort and in case passport of the petitioner released, he may go abroad and may not come back in the future as well. So, there is no ground for acceptance of his plea and release of his passport.

Similar matter came before this Court in **CRM-M No. 20612 of 2015** titled as **Lt. Col. Baljit Singh Sandhu v. CBI Chandigarh** decided on 25.4.2016, relevant portion of which is produced as under :-

*“Learned counsel for the petitioner relied upon the law laid down by the Hon'ble Supreme Court in **Suresh Nanda v. CBI in Criminal Appeal Nbo.179 of 2008 decided on 24.1.2008**, wherein it is held as under :-*

“15. In our opinion, even the Court cannot impound a passport. Though, no doubt, Section 104 Cr.P.C. States that the Court may, if it thinks fit, impound any document or thing produced before it, in our opinion, this provision will only enable the Court to impound any document or thing other than a passport. This is because impounding a “passport” is provided for in Section 10(3) of the Passports Act. The Passport Act is a special law while the Cr.P.C. Is a general law. It is well settled that the special law prevails over the general law vide G.P. Singh's Principles oof Statutory Interpretation (9th Edition pg. 133). This principle is expressed in the maxim “Generalia specialibus non derogant”. Hence, impounding of a passport cannot be done by the Court under Section 104 Cr.P.C. Though it can impound any other document or thing.”

In view of above, the instant petition is allowed. Impugned order dated 2.11.2016 is hereby set aside and the learned trial Court is directed to release the passport of the petitioner subject to his furnishing of surety bond in

the sum of Rs.5 lakhs and undertaking by the petitioner that he will not visit abroad except with the prior permission of the Court. The Court shall be at liberty to impose condition while granting the permission to visit abroad.

(SHEKHER DHAWAN)
JUDGE

14.11.2017
Ashwani

Speaking/reasoned	:	Yes/No
Reportable	:	Yes/No