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

**CRM-M-48720-2017
Date of Decision: 21.12.2017**

Harpreet Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. B.S. Bhalla, Advocate,
for the petitioner.

SUDIP AHLUWALIA J. (ORAL)

Notice of motion.

[2]. On the asking of the Court, Mr. Hittan Nehra, Additional Advocate General, Punjab, accepts notice on behalf of respondent No.1-State. Let a copy of the paper-book be supplied to him during the course of the day.

[3]. In this petition, the petitioner has challenged the order dated 04.12.2017 passed by the Ld. Judicial Magistrate First Class, Moga, vide which respondent No.2, who is the accused in FIR No.38, dated 04.03.2015, under Sections 420 & 506 of the IPC, registered at Police Station Dharamkot, District Moga, has been permitted to go abroad for one year w.e.f. 15.12.2017 subject to imposition of certain conditions including furnishing a Bank guarantee of ₹5 lacs, and submitting copies of his Passport as well as social security in Canada and also attendance on his behalf in Court through his counsel during the period of his absence from the country.

[4]. Background of the matter is that after lodging of the FIR in which the basic allegation was that the respondent accused had cheated the complainant/petitioner of an amount of ₹4,50,000/- on the pretext of getting him settled in Canada, the Police Authorities did not find any substance in the allegations. Consequently, a Cancellation Report was submitted. It was, however, opposed by the petitioner and curiously on the very same date (04.12.2017) a separate order was passed by the Ld. Judicial Magistrate First Class, Moga directing further investigation in the matter.

[5]. It is the contention of Ld. Counsel for the petitioner that such approach of the Ld. Court below is *ex facie* contradictory whereby on the one hand the Cancellation Report against the accused respondent is not being accepted and on the other he is also being permitted to leave the Court's jurisdiction for an inordinately long period.

[6]. This Court has gone through the impugned order. Considering the background that no substantive material supporting the complainant's allegation was found during the course of inquiry by the Police Officials and the fact that hardly any documentary evidence in support of the purported transactions between the parties is available, the liberty granted to the respondent to return to his country whereof which he is presently a citizen is not altogether unreasonable considering the other safeguards imposed against him.

[7]. This Court is, therefore, not inclined to interfere with the impugned order to any substantial extent except for a modification that the amount of Bank guarantee is increased to ₹10 lacs, with a further condition that the same shall become encashable forthwith if after fresh investigation any material is found against the respondent and he fails to turn up before

the Ld. Court below on a stipulated date thereafter.

[8]. Disposed off.

21.12.2017

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No